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EXHIBIT 42

2020-02-11 Tanya Hughes Deposition Transcript

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U.S. DISTRICT COURT MPLS

<div>1</div> <div>1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</div> <div>AMERICAN ARBITRATION ASSOCIATION</div> <div>- - - - -</div> <div>In the Matter of the Arbitration between:</div> <div>RE: Case No.: 01-19-0001-0069</div> <div>Yufan Zhang And UnitedHealth Group, Inc. and Sujatha Duraimanickam</div> <div>Case Manager: Carol A. Placella</div> <div>- - - - -</div> <div>DEPOSITION</div> <div>The following is the deposition of</div> <div>TANYA HUGHES taken before Jolynn Graham, RPR, Notary Public, pursuant to Notice of Taking Deposition, at 120 South 6th Street, Suite 2600, Minneapolis, Minnesota, commencing at approximately 9:09 a.m., February 11, 2020.</div> <div>JOLYNN GRAHAM REPORTING</div>	<div>3</div> <div>1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</div> <div>EXHIBITS</div> <div>MARKED:</div> <div>Exhibit 1 - 30(b)(6) Notice..... 8</div> <div>Exhibit 2 - Notice for Tanya Hughes..... 8</div> <div>Exhibit 3 - IDR Appeal Form..... 75</div> <div>Exhibit 4 - Email re Colleague feedback..... 81</div> <div>Exhibit 5 - Colleague feedback..... 82</div> <div>Exhibit 6 - Email re age discrimination allegations..... 84</div> <div>Exhibit 7 - Email re IDR response..... 95</div> <div>Exhibit 8 - 2/7/2017 lettre to Mr. Zhang.... 97</div> <div>Exhibit 9 - Demand for Arbitration..... 108</div> <div>Exhibit 10 - List of co-workers, 113</div> <div>JOLYNN GRAHAM REPORTING</div>
<div>2</div> <div>1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</div> <div>APPEARANCES:</div> <div>On Behalf of the Claimant, Yufan Zhang:</div> <div>Kaitlyn L. Dennis, Esquire</div> <div>&</div> <div>Daniel J. Nordin, Esquire</div> <div>Gustafson Gluek PLLC</div> <div>120 South 6th Street</div> <div>Suite 2600</div> <div>Minneapolis, Minnesota 55402</div> <div>Kdennis@gustafsongluek.com</div> <div>On Behalf of UnitedHealth Group, Inc. and</div> <div>Sujatha Duraimanickam:</div> <div>Sandra Jezierski, Esquire</div> <div>Nilan Johnson Lewis</div> <div>120 South 6th Street</div> <div>Suite 400</div> <div>Minneapolis, Minnesota 55402</div> <div>Sjezierski@nilanjohnson.com</div> <div>DEPOSITION REFERENCE INDEX</div> <div>Examination by Ms. Dennis: 4</div> <div>OBJECTIONS</div> <div>By Ms. Jezierski: 31, 36, 37, 41, 43, 44, 48, 49, 50, 52, 68, 71, 72, 73, 76, 87, 89, 92, 94, 98, 104, 105, 107, 108, 111, 112, 113, 114, 115, 116, 117, 119, 120, 121</div> <div>JOLYNN GRAHAM REPORTING</div>	<div>4</div> <div>1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</div> <div>PROCEEDINGS</div> <div>(The deposition of TANYA HUGHES was commenced at 9:32 a.m. as follows:)</div> <div>TANYA HUGHES,</div> <div>after having been first duly sworn,</div> <div>deposes and says under oath as follows:</div> <div>***</div> <div>MS. DENNIS: Kaitlyn Dennis from</div> <div>09:32:56 Gustafson Gluek representing Claimant, Yufan Zhang.</div> <div>MR. NORDIN: Daniel Nordin, Gustafson Gluek, also on behalf of the Claimant.</div> <div>MS. JEZIERSKI: Sandra Jezierski on</div> <div>09:33:05 behalf of UnitedHealth.</div> <div>THE WITNESS: Tanya Hughes on behalf of UnitedHealth.</div> <div>EXAMINATION</div> <div>BY MS. DENNIS:</div> <div>09:33:15 Q. So I was going to ask you to state your name for the record but you already did that.</div> <div>So I'll be asking a series of</div> <div>questions today related to Mr. Yufan Zhang's</div> <div>claims in this arbitration. And for the sake of</div> <div>09:33:29 clarity, I know he's referred to in a lot of the</div> <div>JOLYNN GRAHAM REPORTING</div>

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1 documents as Frank, so I will refer to him as
 2 Frank; does that make sense?
 3 **A. Yes.**
 4 **Q.** Have you been deposed before?
 09:33:40 5 **A. I have not.**
 6 **Q.** Okay. So I'll just go over kind of
 7 the basic ground rules, and if you have any
 8 questions, please let me know. So today I'll be
 9 asking you a series of questions, like I said. We
 09:33:53 10 have a court reporter here who's taking down
 11 everything that we say. And for her sake it's
 12 best if you wait for me to finish a question
 13 before beginning the answer just so we have a
 14 clear record, because she can't get down what both
 09:34:12 15 of us are saying at the same time; does that make
 16 sense?
 17 **A. Yes.**
 18 **Q.** And on a similar note, if you could
 19 avoid answering questions with things like um-hmm
 09:34:22 20 or uh-huh, it's just hard for -- or it's difficult
 21 to transcribe those for the record as well. So if
 22 you would give a clear verbal answer, that would
 23 help make the record clear; does that make sense?
 24 **A. Yes.**
 09:34:33 25 **Q.** Thank you. If you don't understand
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1 a question, let me know and I will do my best to
 2 rephrase it. But if you do answer a question I am
 3 going to assume that you understood it; is that
 4 fair?
 09:34:48 5 **A. Yes.**
 6 **Q.** From time to time your attorney
 7 might make objections to questions I ask. Unless
 8 she specifically tells you not to answer, please
 9 answer the question; do you understand?
 09:34:58 10 **A. Yes.**
 11 **Q.** Any time you need a break you can
 12 let me know and we can go off the record. If you
 13 need some more water or a bathroom break, or just
 14 need to walk around, that's fine. I may ask you
 09:35:14 15 to finish asking a question if I have asked one,
 16 or I may ask you to let me finish my line of
 17 questioning before we take a break; is that fair?
 18 **A. Yes.**
 19 **Q.** Have you ever been a plaintiff or a
 09:35:38 20 defendant in any other lawsuits?
 21 **A. No.**
 22 **Q.** Are you taking any medication that
 23 may affect your memory or ability to testify
 24 truthfully today?
 09:35:48 25 **A. No.**
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1 **Q.** Can you please describe your
 2 educational background?
 3 **A. I have a bachelor's degree in**
 4 **business management with a focus on human**
 09:35:59 5 **resources.**
 6 **Q.** And when did you get that degree?
 7 **A. I graduated in 2002.**
 8 **Q.** Where was that degree from?
 9 **A. That was at the University of**
 09:36:12 10 **Wisconsin-River Falls.**
 11 **Q.** Okay. Do you have any other
 12 professional certifications or credentials?
 13 **A. No.**
 14 **Q.** What is your current position at
 09:36:38 15 UnitedHealth?
 16 **A. I'm employee relations case manager.**
 17 **Q.** Is that your official title?
 18 **A. Yes.**
 19 **Q.** Have you held any other positions
 09:36:47 20 while at UnitedHealth?
 21 **A. Yes.**
 22 **Q.** What?
 23 **A. Prior to this I was a senior**
 24 **employee relations analyst.**
 09:36:54 25 **Q.** And have you held any other titles
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1 besides that at UnitedHealth?
 2 **A. No.**
 3 **Q.** And when did you change job titles
 4 at UnitedHealth?
 09:37:09 5 **A. April of 2014.**
 6 (Exhibit Nos. 1 & 2 were
 7 marked for identification.)
 8 BY MS. DENNIS:
 9 **Q.** Do you understand you are here today
 09:38:37 10 testifying as a representative of UnitedHealth?
 11 **A. Yes.**
 12 **Q.** And do you understand today you're
 13 also here to testify in your personal capacity as
 14 well?
 09:38:46 15 **A. Yes.**
 16 **Q.** Can you take a look at what has been
 17 marked Exhibit 1. Can you take a minute to look
 18 at that and tell me if you recognize this
 19 document.
 09:39:07 20 MS. JEZIERSKI: She asked if you
 21 recognized it.
 22 THE WITNESS: Oh, I'm sorry. I do.
 23 Sorry about that.
 24 BY MS. DENNIS:
 09:39:18 25 **Q.** That's okay. So what do you
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1 understand this document to be?

2 **A. I understand that this is the**

3 **arbitration document, or the deposition document I**

4 **guess.**

09:39:27 5 **Q.** You understand this is the

6 deposition notice to UnitedHealth Group as a

7 corporation?

8 **A. Yes.**

9 **Q.** If you turn to page 4 of this

09:39:48 10 document, titled Schedule A at the top. Sorry, I

11 meant actually page 6, under the heading Topics.

12 Have you reviewed the numbered items under the

13 heading Topics on page 6?

14 **A. Yes.**

09:40:20 15 **Q.** And have you reviewed the Topics

16 continuing on to pages 7 and 8?

17 **A. Yes.**

18 **Q.** When was the first time that you saw

19 this document?

09:40:36 20 **A. I believe it was on -- I'm not sure,**

21 **Thursday maybe. Just trying to think of the date,**

22 **so it might have been, like, the 4 or 5th.**

23 **Q.** That's fine. An approximation is

24 fine. So I just am going to go through each topic

09:41:05 25 before we jump into the questions and just make

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1 sure, or confirm whether or not you are prepared

2 to testify on each topic; is that okay?

3 **A. Yes.**

4 **MS. JEZISKI:** For the record,

09:41:19 5 Tanya is not testifying as to Topic 9.

6 **MS. DENNIS:** Are you going to

7 instruct her not to answer?

8 **MS. JEZISKI:** She's not prepared

9 for that. We're trying to find someone who can

09:41:34 10 testify to that.

11 **MS. DENNIS:** Okay.

12 **MS. JEZISKI:** We can talk about

13 that during break.

14 **MS. DENNIS:** All right.

09:41:41 15 **BY MS. DENNIS:**

16 **Q.** So I'll go through the other

17 deposition topics. So Topic 1 reads, the

18 approximate number of people respondent employed

19 during the relevant period; are you prepared to

09:41:59 20 testify on this topic today?

21 **A. Yes.**

22 **Q.** And did you review any documents to

23 prepare to testify on this topic?

24 **A. Yes.**

09:42:07 25 **Q.** And what documents did you review?

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1 **A. It was a report.**

2 **Q.** Do you remember anything else about

3 the report?

4 **A. No. It was an Excel spreadsheet**

09:42:22 5 **with the number of employees.**

6 **MS. DENNIS:** Sorry, I didn't realize

7 how loud it would be out there.

8 **BY MS. DENNIS:**

9 **Q.** So Topic 2 reads, respondent's

09:42:33 10 corporate or official procedures and actual

11 practices for investigating and addressing reports

12 or complaints of age discrimination; are you

13 prepared today to testify on this topic?

14 **A. Yes.**

09:42:47 15 **Q.** And did you review any documents to

16 prepare to testify on this topument? Sorry, I

17 combined the words topic and document.

18 Did you refer to any documents to

19 prepare to testify on this topic?

09:43:01 20 **A. No.**

21 **Q.** Did you do anything to prepare to

22 testify on this topic today?

23 **A. I'm very familiar with the topic so**

24 **I just refreshed my own memory, or made sure that**

09:43:17 25 **I recalled, or made sure to recall each step. But**

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1 **it's a daily situation that I'm --**

2 **Q.** So you just relied on your personal

3 recollection; is that correct?

4 **A. Yes.**

09:43:34 5 **Q.** Topic 3 reads, respondent's policy

6 and procedures for conducting and collecting

7 performance reviews; are you prepared to testify

8 on this topic today?

9 **A. Yes.**

09:43:48 10 **Q.** And did you do anything to prepare

11 to testify on this topic?

12 **A. Yes.**

13 **Q.** What? What did you do to prepare?

14 **A. I reviewed our common review**

09:43:59 15 **process.**

16 **Q.** And how did you review that common

17 review process?

18 **A. On our employee intranet site.**

19 **Q.** Did you do anything else to prepare

09:44:17 20 to testify on that topic?

21 **A. No.**

22 **Q.** To clarify, you did not meet with

23 anyone to prepare to testify on this topic?

24 **A. I met with Sandra.**

09:44:37 25 **Q.** Anyone else?

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1 **A. I spoke with our internal attorney,**
2 **Jennifer Service.**
3 **Q.** And just your attorneys?
4 **A. Yes.**
09:44:51 5 **Q.** Okay. Topic 4 reads, any formal or
6 informal complaints, reports, grievances, concerns
7 or discussion of discrimination, retaliation,
8 harassment, or disparate treatment based on age,
9 that any of the respondent's current, former, or
09:45:16 10 potential employees, applicants, trainees, or job
11 candidates (including Claimant) made regarding
12 Respondent Duraimanickam during the relevant
13 period; are you prepared today to testify on this
14 topic?
09:45:32 15 **A. Yes.**
16 **Q.** Did you do anything to prepare to
17 testify on this topic today?
18 **A. Yes.**
19 **Q.** What did you do?
09:45:37 20 **A. I reviewed our case submission**
21 **database.**
22 **Q.** And did you do anything else to
23 prepare to testify on this topic?
24 **A. No.**
09:45:56 25 **Q.** Did you meet with anyone to prepare
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1 to testify on this topic other than your
2 attorneys?
3 **A. No.**
4 **Q.** So I'm going to read the next topic
09:46:20 5 on page 7. It's listed as Topic 5, employee
6 performance policies, rules, and disciplinary
7 procedures applicable to team members, employees,
8 or trainees under current or former supervision or
9 management of Respondent Duraimanickam; are you
09:46:37 10 prepared today to testify on this topic?
11 **A. Yes.**
12 **Q.** Did you do anything to prepare to
13 testify on this topic?
14 **A. Yes.**
09:46:46 15 **Q.** What did you do?
16 **A. I reviewed our common review**
17 **process.**
18 **Q.** Did you do anything else to prepare
19 to testify on this topic?
09:46:59 20 **A. No.**
21 **Q.** Did you speak to anyone other than
22 your attorneys to prepare?
23 **A. No.**
24 **Q.** Topic 6 reads, Respondent's
09:47:22 25 initiatives, practices, or programs related to age
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1 discrimination policy, as applied to employee
2 recruitment, diversity and work assignments; are
3 you prepared to testify on this topic today?
4 **A. Yes.**
09:47:35 5 **Q.** Did you do anything to prepare to
6 testify on this topic?
7 **A. Yes.**
8 **Q.** What did you do?
9 **A. I reviewed our company internet**
09:47:44 10 **site.**
11 **Q.** What did you review specifically on
12 the --
13 **A. Under the careers section. I also**
14 **reviewed our company's Equal Employment**
09:48:13 15 **Opportunity Policy.**
16 **Q.** Did you review anything else?
17 **A. No.**
18 **Q.** And did you speak with anyone else
19 to prepare, other than your attorneys?
09:48:22 20 **A. No.**
21 **Q.** Topic 7 reads, Respondent's
22 investigation and/or assessment of Claimant's age
23 discrimination claims, including communication
24 with Claimant's former coworkers and supervisors,
09:48:38 25 collection and recording of statements, creation
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1 of reports, and any resulting action taken by
2 Respondent; are you prepared to testify on this
3 topic today?
4 **A. Yes.**
09:48:47 5 **Q.** Did you do anything to prepare to
6 testify on this topic today?
7 **A. Yes.**
8 **Q.** What did you do?
9 **A. I reviewed the internal dispute**
09:48:57 10 **resolution documents for Mr. Zhang; I reviewed**
11 **Mr. Zhang's common review, interim review and**
12 **colleague reviews associated with those, as well**
13 **as email correspondence between myself and**
14 **Mr. Zhang; and Mr. Zhang's internal dispute**
09:49:28 15 **resolution filing, corrective action plans, and**
16 **case notes related to the internal dispute**
17 **resolution case, and his other internal dispute**
18 **resolution case.**
19 **Q.** Is that everything you reviewed?
09:50:05 20 **A. I believe so, yes.**
21 **Q.** Did you speak with anyone other than
22 your attorneys to prepare to testify on this
23 topic?
24 **A. No.**
09:50:11 25 **Q.** Topic 8 reads, Respondent's
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09:50:34 1 investigation and/or assessment of Claimant's job
2 performance, including communication of
3 Complaint's former coworkers and supervisors,
4 collection and recording of statements, creation
5 of reports, and any resulting actions taken by
6 Respondent; are you prepared to testify on this
7 topic today?
8 **A. Yes.**
9 **Q.** Did you do anything to prepare to
10 testify on this topic?
11 **A. Yes.**
12 **Q.** What did you do?
13 **A. I reviewed Mr. Zhang's corrective**
14 **action plan, common review, interim review, the**
09:50:47 15 **colleague reviews associated with those. I**
16 **reviewed his internal dispute resolution filing,**
17 **his corrective action plans, and the notes**
18 **associated with his internal dispute resolution**
19 **case.**
09:51:17 20 **Q.** So these would be the same documents
21 you reviewed to prepare for the previous topic?
22 **A. Yes.**
23 **Q.** Would there be any difference in the
24 documents that you referred to to prepare yourself
09:51:30 25 to testify on either of these topics?

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09:51:37 1 **A. No.**
2 **Q.** And did you speak with anyone other
3 than your attorneys --
4 **A. No.**
5 **Q.** -- to prepare to testify on this
6 topic?
7 **A. No.**
8 **Q.** So, counsel indicated that you're
9 not prepared to testify on Topic No. 9; is that
09:51:57 10 correct?
11 **A. Yes.**
12 **Q.** And with the understanding that
13 UnitedHealth will designate another witness to
14 testify on this topic, I will not be asking
09:52:20 15 questions today in your capacity as a
16 representative for UnitedHealth. But I may ask
17 questions in your personal capacity, and I will be
18 clear when I'm asking those questions, and I'll do
19 it at a separate time to avoid confusion; is that
09:52:46 20 fair?
21 **A. Yes.**
22 **Q.** Let's turn to the last page of this
23 document, page 8. Topic 10 reads, content of
24 documents and/or statements relied upon or
09:53:04 25 discovered in any investigation or research

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09:53:19 1 Respondents undertook to verify or deny
2 Respondents' specific factual allegations
3 reflected in paragraphs 34 to 39 of Claimant's
4 Demand for Arbitration; are you prepared to
5 testify on this topic today?
6 **A. Yes.**
7 **Q.** Did you do anything to prepare --
8 sorry, did you do anything to prepare to testify
9 on this topic today?
09:53:28 10 **A. Yes.**
11 **Q.** What did you do?
12 **A. I reviewed his common reviews,**
13 **Mr. Zhang's common review, rather, interim review,**
14 **colleague reviews, the internal dispute resolution**
09:53:46 15 **documents, and the notes associated with his**
16 **internal dispute resolution filing, and emails**
17 **between Mr. Zhang and I related to his internal**
18 **dispute resolution.**
19 **Q.** And would these be the same
09:54:05 20 documents you referred to to prepare to answer
21 Topics 7 and 8?
22 **A. Yes.**
23 **Q.** Are there any additional documents
24 you referred to to prepare to answer questions
09:54:20 25 related to Topic 10?

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09:54:42 1 **A. No.**
2 **Q.** And it appears that Topics 11 and 12
3 are identical, so I'm just going to ask about one
4 of them.
5 So Topic 11 reads, content of
6 documents and/or statements relied upon or
7 discovered in any investigation or research
8 Respondents undertook to verify or deny
9 Respondents' specific factual allegations
09:54:55 10 reflected in paragraph 43 of Claimant's Demand for
11 Arbitration; are you prepared to testify on this
12 topic today?
13 **A. Yes.**
14 **Q.** And did you do anything to prepare
09:55:07 15 to testify on this topic?
16 **A. Yes.**
17 **Q.** And did you rely on the same
18 documents that you referred to to prepare for
19 Topics 7, 8 and 10?
09:55:23 20 **A. Yes.**
21 **Q.** Did you refer to any additional
22 documents?
23 **A. No.**
24 **Q.** Topic 13 is identical to 11 but it
09:55:39 25 asks about paragraphs 46 to 47. Did you review

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1 any additional documents that you haven't
2 identified to prepare to testify on Topic 13?
3 Sorry, I can rephrase that.

4 **A. Sure. Thank you.**

09:56:05 5 **Q.** I asked that in a different way than
6 everything else, so I will just go through it.
7 So 13 reads, content of documents
8 and/or statements relied upon or discovered in any
9 investigation or research Respondents undertook to
09:56:20 10 verify or deny Respondents' specific factual
11 allegations reflected in paragraphs 46 to 47 of
12 Claimant's Demand for Arbitration; are you
13 prepared to testify on Topic 13 today?

14 **A. Yes.**

09:56:34 15 **Q.** And did you refer to any documents
16 to prepare to testify on Topic 13 today?

17 **A. I reviewed the documents that I**
18 **reviewed for Topics 7, 8, 10 and 11, which were**
19 **the common review, interim review, emails**
09:56:57 20 **associated with the internal dispute resolution**
21 **filing, the internal dispute resolution documents.**
22 **I'm not sure if I said this, the colleague reviews**
23 **if associated with the internal dispute, and the**
24 **common and interim reviews as well as the**
09:57:17 25 **corrective action plans.**

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1 **Q.** And did you speak to anyone other
2 than your attorneys to prepare for -- to testify
3 on Topic 13?

4 **A. No.**

09:57:27 5 **Q.** Okay. Besides the documents you've
6 identified that you relied on to prepare yourself
7 to testify on these topics today, did you do
8 anything else to prepare to testify on these
9 topics today?

09:57:49 10 **A. No.**

11 **Q.** Did you meet with Ms. Jezierski --
12 MS. DENNIS: Am I saying that
13 correct?

14 MS. JEZIERSKI: Mm-hmm.

15 BY MS. DENNIS:

16 **Q.** -- to prepare for today's
17 deposition?

18 **A. Yes.**

09:58:08 19 **Q.** And approximately how long did you
20 meet with her? And I'm not interested in any of
21 the substance, just kind of an estimate of how
22 much time.

23 **A. About three hours.**

24 **Q.** And when was this?

09:58:21 25 **A. Thursday, February 6th.**

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1 **Q.** Okay. And have you met with her at
2 any other time to prepare to testify today?

3 **A. No.**

4 **Q.** Did you speak to anyone else other
09:58:45 5 than your attorneys to prepare to testify today on
6 any topic?

7 **A. No.**

8 MS. DENNIS: Can we go off the
9 record for just a moment.

09:59:07 10 (Off-the-record discussion.)

11 MS. DENNIS: Let's go back on the
12 record.

13 BY MS. DENNIS:

14 **Q.** What is the approximate number of
10:01:24 15 people UnitedHealth employed during 2016?

16 **A. Nationally, around 144,000;**
17 **internationally, around 175,000.**

18 **Q.** Thank you.

19 MS. JEZIERSKI: Just for the record,
10:01:46 20 it appears we're doing the 30(b)(6) deposition
21 first; is that correct?

22 MS. DENNIS: Yes. Sorry, I should
23 have been clear.

24 MS. JEZIERSKI: Okay.

10:01:55 25 BY MS. DENNIS:

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1 **Q.** Whenever -- during this first part
2 of the deposition, I'm going to be asking you
3 questions in your capacity as a representative for
4 UnitedHealth. And when -- later when I ask you
5 questions in your personal capacity, I will make
6 it clear when that division begins so we don't --
7 so everything is kept clear who you're testifying
8 on behalf of; is that fair?

9 **A. Yes.**

10:02:23 10 **Q.** Does UnitedHealth have a policy on
11 age discrimination?

12 **A. Yes.**

13 **Q.** What's the general purpose of that
14 policy?

10:02:39 15 **A. That discrimination against any**
16 **individual for their age, in addition to multiple**
17 **other items, is prohibited.**

18 **Q.** Does that policy specify a certain
19 age?

10:03:01 20 **A. The policy itself does not specify**
21 **an age.**

22 **Q.** Why was that policy enacted?

23 **A. Because of the Civil Rights Act of**
24 **1964.**

10:03:16 25 **Q.** Is there any other reason why

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1 UnitedHealth has that policy?

2 **A. To ensure that all employees are**
3 **treated based on their merit and not as a result**
4 **of their age, race, religion, gender, ethnicity,**
5 **or health condition.**

6 **Q.** And does UnitedHealth enforce this
7 anti-age discrimination policy?

8 **A. Yes.**

9 **Q.** How does UnitedHealth enforce this
10 policy?

11 **A. We provide training for managers; we**
12 **provide training for employees; we have an**
13 **HRdirect number for employees to report any**
14 **concerns related to discrimination or any other**
15 **concerns related to their employment.**

16 **Q.** Does UnitedHealth enforce this
17 policy in any other ways?

18 **A. We also have an anonymous compliance**
19 **and ethics line where people can report concerns**
20 **related to their employment, including age**
21 **discrimination.**

22 **Q.** Are there any other ways this policy
23 is enforced?

24 **A. Not that I can recall.**

25 **Q.** Who is primarily responsible for
JOLYNN GRAHAM REPORTING

1 enforcing UnitedHealth's antidiscrimination
2 policies?

3 **A. All employees at UnitedHealth Group**
4 **are responsible for enforcing UnitedHealth Group's**
5 **policy on discrimination.**

6 **Q.** Is there anyone -- sorry, let me
7 back up.

8 Is the responsibility shared equally
9 among all employees?

10 **A. Yes.**

11 **Q.** Besides the training for managers,
12 training for employees, the HRdirect number for
13 employees to report discrimination, and the
14 anonymous ethics line, are there any other
15 company-wide measures to address age
16 discrimination in the workplace?

17 **A. Not that I'm aware of.**

18 **Q.** How are allegations of age
19 discrimination reported to UnitedHealth?

20 **A. They can be reported to the HRdirect**
21 **team; they can be reported through the compliance**
22 **and ethics line; and they can be reported to any**
23 **level of management, or any other leader of the**
24 **organization.**

25 **Q.** Are there any other ways age
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1 discrimination can be reported to UnitedHealth?

2 **A. Not that I'm aware of.**

3 **Q.** So let's talk about the HRdirect
4 line; can you tell me generally how that works?

5 **A. Yes. It is a 1-800 number that is**
6 **available to employees and former employees, that**
7 **people can contact. And there are various areas**
8 **within HRdirect that an employee would possibly**
9 **utilize: Payroll, benefits, recruitment, employee**
10 **relations. And if it's an employee relations**
11 **claim, somebody will reach out to the employee who**
12 **reported the issue to discuss the issue and**
13 **document in our case system. And depending on**
14 **where it goes from there, you know, possibly begin**
15 **an investigation.**

16 **Q.** And can you tell me generally how
17 the anonymous ethics line works?

18 **A. Yes. Anyone can report through an**
19 **email or through a phone number, either**
20 **anonymously or not. And they would report to**
21 **somebody within the compliance and ethics line.**

22 **Q.** And would the next step after
23 someone used the anonymous ethics line be the same
24 as the HRdirect, in that it would be documented in
25 the case system and an investigation would

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1 possibly be begun?

2 **A. Yes, it's the same.**

3 **Q.** Is the difference between the two,
4 it's just that one is anonymous?

5 **A. Yes. And one of them comes through**
6 **the compliance and ethics line. And if it is an**
7 **HR concern versus what we would consider a**
8 **compliance issue, they will pass the case on to**
9 **our team --**

10 **Q.** Okay.

11 **A. -- to begin that same process.**

12 **Q.** And when you say our team, what do
13 you mean?

14 **A. Employee relations.**

15 **Q.** And what does employee relations do?

16 **A. Employee relations is responsible**
17 **for speaking with employees on employee**
18 **complaints, speaking with managers with relation**
19 **to concerns about employees, responsible for**
20 **investigating or facilitating investigations into**
21 **employee complaints. We're also responsible for**
22 **facilitating internal dispute resolutions.**

23 **Q.** In your particular office, how
24 many -- just approximately how many people are on
25 the employee relations? Is it a department?

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1 **A. Yes.**

2 **Q.** How many -- presently how many
3 people are in the employee relations department?

4 **A. 70.**

10:12:07 5 **Q.** And are these employees all in one
6 geographic office?

7 **A. No.**

8 **Q.** So is that -- is the approximately
9 70 people, is that throughout the entirety of the
10:12:28 10 UnitedHealth Group?

11 **A. Actually I was speaking to the US.**
12 **There are international employee relations people**
13 **as well, so I would have to add a few onto that.**
14 **It's not nearly the same kind of number, but...**

10:12:43 15 **Q.** Yeah. So just for ease of clarity,
16 if I ask a question I will assume you're answering
17 for the United States instead of international.

18 **A. Thank you.**

19 **Q.** So how is employees relations,
10:13:06 20 what's kind of the -- how is it structured
21 internally?

22 **A. Sure. There are employee relations**
23 **analysts which handle more basic cases, or policy**
24 **questions. There are senior employee relations**
10:13:28 25 **analysts that handle more complex cases for**

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1 **employees that are salary grade 28 or below. And**
2 **there are employee relations consultants that**
3 **handle employee cases for 28 and below, also help**
4 **manage the senior employee relations analyst.**

10:13:52 5 There are employee relation case
6 managers who handle complex cases, and cases
7 related to employees of grade 29 and above.

8 And then we have our leadership team
9 that manage the case managers and the senior

10:14:14 10 employee relations analysts. We also have an area
11 for compliance; that's in employee relations but
12 separate.

13 **Q.** And can you remind me, what is your
14 current job title?

10:14:32 15 **A. I'm an employee relations case**
16 **manager.**

17 **Q.** And what are the main
18 responsibilities in that role?

19 **A. Employee relations case managers**
10:14:50 20 **work on cases about employees grade 29 and above.**
21 **We work on downsizing cases as well. And that's**
22 **mainly the administration of that. We work with**
23 **employee complaints of discrimination, harassment,**
24 **or otherwise. We perform trainings and provide**
10:15:29 25 **counsel to managers and employees across the**

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1 **organization.**

2 **Q.** Have you provided training to
3 managers on UnitedHealth's age discrimination
4 policy?

10:15:58 5 MS. JEZIERSKI: Objection as to
6 form. Are you asking her as a 30(b)(6) witness or
7 personal? Sounded personal.

8 MS. DENNIS: I think it is covered
9 under either.

10:16:12 10 THE WITNESS: No.

11 BY MS. DENNIS:

12 **Q.** So has UnitedHealth Group, as a
13 company, provided training to UnitedHealth
14 managers on age discrimination?

10:16:37 15 **A. Yes.**

16 **Q.** What is that? Is that training
17 separate from other types of antidiscrimination
18 training?

19 **A. No.**

10:16:44 20 **Q.** Can you describe generally the type
21 of training provided to managers on
22 antidiscrimination policies?

23 **A. Sure. We have a learned source tool**
24 **which is an electronic Just-In Time based**
10:16:59 25 **training, which managers are responsible for**

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1 **taking; that goes through expectations of**
2 **leadership, including, you know, understanding of**
3 **our discrimination policies as well as other**
4 **policies.**

10:17:16 5 In addition, we have a yearly code
6 of conduct attestation for all employees that
7 discusses this subject matter.

8 **Q.** Can you tell me more about that code
9 of context [sic] attestation?

10:17:36 10 **A. Yes, it is a computer-based**
11 **attestation, and it goes through our policies, our**
12 **code of conduct, including discrimination topics,**
13 **and we are then required to take a little quiz at**
14 **the end to make sure that we are understanding the**
10:17:54 15 **topics. And once we have completed the training**
16 **we will receive a -- we'll attest that we**
17 **understand, and that happens on a yearly basis.**

18 **Q.** So I just want to go back to talking
19 about your role as an employee relations case
10:18:37 20 manager. Can you to walk me through what course
21 of action would happen after an employee made a
22 claim of age discrimination?

23 **A. Yes. There are two separate**
24 **processes. If they contact the HRdirect number to**
10:19:36 25 **file a complaint, employee relations will reach**

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1 out, after speaking with the employee, reach out
 2 to the appropriate level of Human Capital or
 3 leadership to discuss the concern and to ask them
 4 to investigate the allegations, while we provide
 10:20:00 5 them with guidance, facilitation of questions, and
 6 discussion of resolution.
 7 The second process is what's called
 8 the internal dispute resolution process, which
 9 typically is filed as a result of an action. An
 10:20:20 10 employee has a choice to file an internal dispute
 11 resolution, and in that particular process, we
 12 reach out to the third level manager if the
 13 employee is disputing a determination.
 14 Q. What do you mean by third level
 10:20:39 15 manager?
 16 A. The employee's manager's manager's
 17 manager. And if that person was not involved in
 18 the action taken that the employee is disputing,
 19 such as a termination, where they've also brought
 10:20:55 20 in an age discrimination or other type of claim,
 21 we will reach out to try to locate a neutral
 22 party.
 23 We also help that party through the
 24 process of the internal dispute resolution serving
 10:21:17 25 as a neutral party between employee and manager,
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1 or human capital member if we're not able to find
 2 a manager that has not been involved in the
 3 decision.
 4 Q. And both of these tracks require an
 10:21:47 5 investigator? Let me rephrase that.
 6 Do either of these tracks require an
 7 investigation of the discrimination claim?
 8 A. Depending on what the employee has
 9 alleged. If they have provided any type of
 10:22:04 10 information to help to contribute to their claim
 11 of age discrimination, yes, they both require an
 12 investigation. But the internal dispute
 13 resolution process, regardless, requires an
 14 investigation.
 10:22:22 15 Q. Is there a specific procedure that
 16 UnitedHealth follows when investigating these
 17 claims?
 18 A. Yes.
 19 Q. Could you describe that in general
 10:22:42 20 terms for me.
 21 A. Yes. Employee relations will reach
 22 out to the appropriate leader, we will discuss the
 23 concern with the leader, and ask the leader to
 24 speak with certain individuals to try to determine
 10:22:59 25 if there's any validity to the claim.
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1 Q. Can I ask a quick question. When
 2 you say an appropriate leader, what do you mean by
 3 that?
 4 A. A leader that is not involved in the
 10:23:14 5 complaint.
 6 Q. So does that mean -- sorry, I will
 7 let you finish.
 8 A. A neutral -- a leader that is in a
 9 neutral position, so not involved in any of the
 10:23:26 10 accusations, and/or any part of the employee's
 11 complaint.
 12 Q. So, you said employee relations
 13 reaches out to an appropriate leader to discuss
 14 with the leader the allegations; is that right?
 10:23:45 15 A. Yes.
 16 Q. And what happens next?
 17 A. We have the leader investigate the
 18 claims by either speaking with witnesses, if that
 19 is part of the claim, or reviewing anything that
 10:24:02 20 has been brought forward as support to the claim.
 21 And we also have the leader speak with the accused
 22 individual and try to understand what can be
 23 substantiated of the employee's claims.
 24 Q. And when you say leader, would you
 10:24:27 25 speak to witnesses if they're a specific category
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1 of witnesses that the procedure requires them to
 2 reach out to?
 3 MS. JEZIERSKI: Object to form.
 4 MS. DENNIS: You can answer if you
 5 understand the question.
 6 THE WITNESS: No, because the
 7 employee would typically provide the witnesses, or
 8 at least state that there are witnesses, and that
 9 is the situation in which they would speak with
 10:24:54 10 witnesses.
 11 BY MS. DENNIS:
 12 Q. So it depends on the
 13 circumstances --
 14 A. Yes.
 10:24:56 15 Q. -- of the allegations?
 16 A. Yes.
 17 Q. And when the leader is reaching out
 18 to the witnesses, is it done in person?
 19 A. It depends. We have a large
 10:25:23 20 telecommuting population, so if that's the case,
 21 then no, it would be on the telephone. If they
 22 are in the same location, then yes, they will
 23 typically speak with the witnesses on-site.
 24 Q. Is there a circumstance where a
 10:25:49 25 leader would rely on one witness to provide --
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1 sorry, I will start that question again.

2 Would there be any circumstances in
3 which a leader would request that one witness
4 gather information from another witness?

10:26:16 5 **A. Yes. If a witness is a leader,**
6 **another leader -- if the witness is another**
7 **leader, they may have that leader ask their direct**
8 **reports to provide information, if appropriate.**

10:26:34 9 **Q. Okay. Would the accused individual**
10 **be asked to provide witness testimony on behalf of**
11 **anyone else other than themselves?**

12 MS. JEZIERSKI: Objection; form.

13 MS. DENNIS: Do you understand the
14 question?

10:26:51 15 THE WITNESS: Can you repeat it,
16 please.

17 MS. DENNIS: Sure.

18 BY MS. DENNIS:

10:26:58 19 **Q. Would there be a circumstance where**
20 **the person being accused of discrimination would**
21 **be asked to provide testimony on behalf of another**
22 **witness?**

10:27:22 23 **A. There may be. Um, I can't think of**
24 **examples right now, but I definitely think there**
25 **are situations, because so many situations depend**

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1 **on the details, that there's definitely a**
2 **possibility that that -- an accused individual can**
3 **also be a witness in other allegations, or that it**
4 **would require them to provide information from**
10:27:41 5 **other people.**

6 **Q. Okay. Would witnesses that a leader**
7 **talked to have the option of providing their**
8 **feedback anonymously?**

9 **A. No.**

10:28:03 10 **Q. So would the accused individual know**
11 **the substance of what the testimony was that the**
12 **witnesses provided?**

13 **A. I'm sorry, I'm not sure if I am**
14 **understanding.**

10:28:18 15 **Q. Sorry, I can rephrase that.**

16 Would the accused individual be
17 aware of the statements other witnesses were
18 making regarding the reported age discrimination?

10:28:39 19 **A. Typically, no. So if we're speaking**
20 **of age discrimination, and the accused is accused**
21 **of age discrimination, and we're asking if that**
22 **accused individual would collect information about**
23 **age discrimination from themselves, collect the**
24 **information from other witnesses, typically that**
10:29:02 25 **is not part of the process, and therefore there**

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1 **would not be information disclosed to the accused**
2 **individual.**

3 **Q. Is there a reason why that would be**
4 **kept separately from the accused individual?**

10:29:23 5 **A. Well, the accused individual**
6 **wouldn't have any reason to know about the witness**
7 **conversations if there's an investigation into the**
8 **an accused individual's -- into something that the**
9 **accused individual has allegedly done, especially**
10:29:41 10 **if it relates to a particular specific claim of**
11 **discrimination.**

12 **Q. Is this process set up in a way to**
13 **prevent retaliation from the accused individual on**
14 **anyone who would provide testimony?**

10:30:02 15 **A. Absolutely.**

16 **Q. How is it set up to achieve that?**

17 **A. Well, as I stated, they're typically**
18 **not aware of who's provided the information as it**
19 **relates to an age discrimination claim or**
10:30:18 20 **something similar. They are typically not**
21 **involved in the investigation related to an**
22 **accusation made of themselves, or about**
23 **themselves. And they're also a non-retaliation**
24 **policy and information provided to all witnesses**
10:30:35 25 **at the time of speaking with them that retaliation**

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1 **is prohibited, and what to do if they feel like**
2 **they have been retaliated against for being part**
3 **of the process.**

4 **Q. Okay. Is that it?**

10:30:47 5 **A. Yes.**

6 **Q. Okay. Besides speaking to**
7 **witnesses, does the leader investigating a claim**
8 **do anything else as part of the investigation?**

9 **A. They speak with the accused**
10:31:13 10 **individual, and if there are witnesses, again, but**
11 **if they're not witnesses, then they would not be**
12 **speaking with witnesses. And they would at times,**
13 **depending on if it is the internal dispute**
14 **resolution process, or the complaint process I**
10:31:31 15 **mentioned earlier, they may speak with the**
16 **complainant.**

17 **Q. Would the leader look at any**
18 **specific documents as part of this investigative**
19 **process?**

10:31:45 20 **A. If there were documents related to**
21 **age discrimination, they may look at those**
22 **documents.**

23 **Q. How does a leader -- how would they**
24 **determine whether or not there would be documents**
10:32:02 25 **related to age discrimination?**

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1 **A. Well, the employee, the complainant,**
2 **would possibly indicate that there were particular**
3 **documents related to age discrimination. And if**
4 **so they would review those documents.**
10:32:14 5 **Q. Generally what type of evidence**
6 **would be enough to substantiate a claim of age**
7 **discrimination in this investigative process?**
8 MS. JEZIERSKI: Objection; form.
9 THE WITNESS: If there is -- sorry,
10:33:01 10 **could you repeat the question, please.**
11 MS. DENNIS: Sure.
12 BY MS. DENNIS:
13 **Q. What type of evidence in this**
14 **investigative process would be enough to**
10:33:10 15 **substantiate a claim of age discrimination?**
16 **A. It's highly dependent on what the**
17 **complainant has reported at the beginning of**
18 **evidence. So, for example, if a complainant has**
19 **indicated that they were discriminated against as**
10:33:28 20 **a part of a conversation between another**
21 **individual, and that other individual denies the**
22 **claim, then we would consider that to be**
23 **unsubstantiated. If the individual admits to the**
10:33:44 24 **claim, they -- we would consider it to be**
25 **substantiated.**

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1 **Q. Are there any other ways a claim of**
2 **age discrimination could be substantiated?**
3 **A. Yes. If there were witnesses that**
4 **supported the claim, that would be a way to**
10:34:12 5 **substantiate that there was a particular -- that**
6 **there might have been something inappropriate,**
7 **whether it be age discrimination or otherwise.**
8 **Q. And in the scenario where it**
9 **involved one individual's words against the other,**
10:34:37 10 **as part of the investigative process, would a**
11 **leader seek out other witnesses on their own?**
12 **A. That's highly dependent on the**
13 **situation. If it was a conversation between two**
14 **individuals, they would not seek out other**
10:34:56 15 **witnesses to ask about a conversation they were**
16 **not aware of, or that they may or may not have**
17 **known about.**
18 **Q. If a discrimination allegation was**
19 **based on more than a conversation, would the**
10:35:20 20 **leader do further investigation beyond -- sorry,**
21 **let me figure out a way to rephrase that.**
22 So if a claim of age discrimination
23 **involved something other than a single**
24 **conversation -- sorry, that's not a better way to**
10:36:00 25 **say it either.**

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1 If an allegation was about a pattern
2 of age discrimination, beyond a one-on-one
3 conversation, would the investigator speak to
4 other witnesses?
10:36:34 5 MS. JEZIERSKI: Objection; form.
6 THE WITNESS: If there were --
7 MS. DENNIS: I can try to figure out
8 a better way to phrase that.
9 THE WITNESS: Thank you.
10:36:49 10 BY MS. DENNIS:
11 **Q. Would it be accurate to say that**
12 **sometimes age discrimination allegations involve**
13 **more than a one-on-one conversation involving age**
14 **discrimination?**
10:37:09 15 **A. They definitely could.**
16 **Q. Do some age discrimination claims**
17 **involve kind of a pattern or practice of age**
18 **discrimination?**
19 **A. Yes, they definitely could.**
10:37:24 20 **Q. Do some age discrimination claims**
21 **involve -- sorry, do some age discrimination**
22 **claims --**
23 If an age discrimination claim
24 **alleged a pattern of age discrimination, would a**
10:38:19 25 **leader investigating that claim seek out**

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1 additional witnesses besides the accused?
2 **A. Only if that individual gave more**
3 **context to the pattern they're alleging occurred.**
4 **Simply indicating there's a pattern but with no**
10:38:42 5 **information to know what to look for, would not**
6 **necessarily be -- would not necessarily require**
7 **the investigator to reach out to random witnesses.**
8 **Q. So if the person making an**
9 **allegation of age discrimination pointed to**
10:39:01 10 **something specific, that would generally be**
11 **investigated?**
12 **A. Yes.**
13 **Q. Is there any type of evidence in an**
14 **investigation that would definitively rule out age**
10:39:25 15 **discrimination?**
16 MS. JEZIERSKI: Objection; form.
17 THE WITNESS: Not -- I'm not sure.
18 BY MS. DENNIS:
19 **Q. So there would not be one specific**
10:39:44 20 **type of evidence that you would look -- that an**
21 **investigator would look to and rely on that to**
22 **determine there was age discrimination; is that**
23 **right?**
24 **A. I need just a minute to try to**
10:40:13 25 **process what hypothetical -- sorry, could you just**

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1 **repeat the question one more time for me, please.**

2 MS. DENNIS: Sure. Could you read
3 back the question.

4 (Requested portion of testimony was read
5 by the court reporter.)

6 THE WITNESS: Well, if the accused
7 individual admitted to discriminating against
8 somebody based on their age, then that would
9 definitely be something that they could look to to
10 substantiate that there had been age
11 discrimination.

12 MS. DENNIS: I think there was a
13 slight transcription error, at least to how I
14 understand I asked the question, was if there's a
15 specific type of information that would
16 definitively rule out age discrimination in an
17 investigation.

18 THE WITNESS: Not that I'm aware of.
19 BY MS. DENNIS:

20 Q. Okay. It's all case specific?

21 A. Yes.

22 Q. Does a leader performing an
23 investigation rely on an employee's performance
24 reviews to determine whether a claim of age
25 discrimination would have merit?

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1 A. It depends on if they're associating
2 an action as a result of age discrimination. And
3 if they are, they would investigate that act or
4 action taken, and if that is related to their
5 performance, they would definitely review their
6 performance reviews and try to understand that
7 action that's being associated by the complainant
8 as part of an age discrimination claim.

9 Q. I see. Does the weight of that
10 performance review -- does the weight in the
11 investigation of that performance review change if
12 the person who wrote the review is the person
13 accused of age discrimination?

14 A. Could you repeat the question,
15 please.

16 MS. DENNIS: Could you read that
17 back, please.

18 (Requested portion of testimony was read
19 by the court reporter.)

20 THE WITNESS: No.

21 BY MS. DENNIS:

22 Q. Does an investigator do anything to
23 independently substantiate the accuracy of a
24 performance review?

25 A. Yes.

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1 Q. What do they do?

2 A. If appropriate, it may not be
3 appropriate in all cases, but if appropriate they
4 may review colleague feedback submitted as part of
5 that review. They may review previous reviews
6 submitted by previous managers that are not part
7 of that accusation.

8 They may, depending on the
9 situation, speak with other individuals. And they
10 may review or speak with individuals about any
11 particular action that the employee is claiming is
12 part of the age discrimination complaint.

13 Q. Does an investigator -- would there
14 be a circumstances in which an investigator would
15 look at any of the work performed by an employee
16 directly?

17 A. In the internal dispute resolution
18 process, it is not typically the responsibility of
19 the investigator at that point to review each
20 individual assignment. It is to make a
21 determination of whether the action the employee
22 is disputing, for example, termination, was an
23 appropriate and warranted decision.

24 Q. Would there be any circumstances
25 where an investigator would look at the work

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1 performed by an employee directly as part of an
2 investigation?

3 A. Because there's such a wide variety
4 of allegations and types of allegations, it's
5 difficult to say no to any kind of question like
6 that, so I guess I can't say no. But it is not
7 typical as part of the internal dispute resolution
8 process for the investigator to get into the
9 minutiae of the particular projects of the
10 employee.

11 Q. I see. Is the investigative process
12 any different for a current employee bringing age
13 discrimination claim compared to an employee who
14 has been terminated?

15 A. No.

16 Q. So either way the claim would be
17 investigated just as thoroughly?

18 A. Yes.

19 Q. Are there certain documents that
20 would have been available -- are there certain
21 documents that would have been available in an
22 investigation for a current employee that would no
23 longer be available if the employee bringing the
24 claim had been terminated?

25 MS. JEZIERSKI: Objection; form.
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1 THE WITNESS: Not that I'm aware of.

2 BY MS. DENNIS:

3 Q. For example, let me clarify that
4 question. When an employee is terminated --
10:47:40 5 sorry, strike that.

6 In an investigation for a current
7 employee who brings a claim of age discrimination,
8 could that employee provide notes about the
9 alleged age discrimination that they put onto
10:48:14 10 their work computer?

11 A. Yes.

12 Q. And for an employee who has been
13 terminated that is alleging age discrimination,
14 would those documents on their previous work
10:48:42 15 computer also be available as part of the
16 investigation?

17 MS. JEZIERSKI: Objection; form.

18 THE WITNESS: Typically, no.

19 BY MS. DENNIS:

10:48:53 20 Q. Why is that?

21 A. **Because the computer is typically**
22 **wiped when an employee is no longer employed in**
23 **order to repurpose the computer.**

24 Q. So there would be no backup for the
10:49:22 25 documents contained on an employee's work

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1 computer?

2 A. **If it is -- if we're talking about**
3 **something on a hard drive, then, no, there's not a**
4 **backup that I'm on aware of. I'm not a technology**
10:49:39 5 **person, so I can't say with 100 percent certainty**
6 **to my knowledge that there's any type of access to**
7 **any backup documents.**

8 Q. Okay. So if a current employee
9 claims that they are being discriminated against
10:49:59 10 by a supervisor due to their age, and after an
11 investigation UnitedHealth concludes there was no
12 age discrimination, what would happen after that?

13 A. **In the case of an internal dispute**
14 **resolution, the employee would receive a response**
10:50:19 15 **in writing indicating the findings of the -- the**
16 **allegations made.**

17 Q. Is that it?

18 A. Yes.

19 Q. Typically would -- sorry.

10:50:46 20 After UnitedHealth found that there
21 was no age discrimination, would that employee
22 remain under the same supervisor typically?

23 MS. JEZIERSKI: Objection; form.

24 THE WITNESS: Typically, yes. If
10:51:07 25 they were a current employee, of course.

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1 BY MS. DENNIS:

2 Q. What would happen if a claim of age
3 discrimination by a current employee is
4 substantiated?

10:51:37 5 A. **If we substantiated that there was**
6 **age discrimination, there would be typically some**
7 **disciplinary action taken on the accused.**

8 Q. What does that mean?

9 A. **Depending on the severity of the**
10:51:51 10 **situation, it could possibly lead to termination.**
11 **For a less egregious substantiated allegation, it**
12 **might result in a final warning.**

13 MS. JEZIERSKI: Is this a good time
14 to take a break?

10:52:17 15 MS. DENNIS: Sure.

16 (Short break.)

17 MS. DENNIS: Let's go back on the
18 record.

19 BY MS. DENNIS:

11:01:25 20 Q. So I think before we went off the
21 record we were talking about what would happen to
22 a person accused of age discrimination if that
23 claim was substantiated. And let me know if this
24 is correct. If it was substantiated it could lead
11:01:52 25 to -- possibly lead to termination, or if it was

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1 less egregious could result in a final Corrective
2 Action Form; is that right?

3 A. Yes.

4 Q. In the last four years have any
11:02:28 5 claims of age discrimination -- let me strike
6 that.

7 Is the scenario you discussed about
8 if the person accused of age discrimination was
9 found to have engaged -- sorry, I'm not making
11:03:10 10 sense there.

11 In the last four years at
12 UnitedHealth, has any claim of age discrimination
13 been substantiated?

14 MS. JEZIERSKI: Objection. That's
11:03:29 15 beyond the scope of the topics listed.

16 MS. DENNIS: Okay.

17 BY MS. DENNIS:

18 Q. Do you know?

19 A. **I can't speak to that specifically.**

11:03:43 20 Q. So is that -- I understand your
21 counsel has objected to it being outside of the
22 deposition topics, but you can still answer if you
23 know.

24 A. **I do not know.**

11:04:05 25 Q. Okay. You don't know.

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1 Do you know if UnitedHealth's
2 antidiscrimination policy has changed or been
3 revised since 2016?

4 **A. I do not believe there's been any**
11:04:41 5 **material changes to the policy. It is possible**
6 **that they have made graphic updates to, you know,**
7 **the intranet policy. But there's no material**
8 **change to the policy.**

9 **Q. Who makes -- when there are changes**
11:05:05 10 **to make, who is responsible for updating or**
11 **advising the anti-age discrimination policy?**

12 **A. There are various people involved in**
13 **updating any type of policy. So employee**
14 **relations is responsible for owning policy for the**
11:05:21 15 **organization.**

16 But there are people in the HR
17 analytic department that would be responsible for
18 posting it. There would be people in the employee
19 relations compliance department to make sure that
11:05:38 20 it's in compliance with any state or federal laws
21 that it might intersect with. And so there are
22 various parties. But typically the majority are
23 employee relations personnel.

24 **Q. So there would be no changes in the**
11:05:56 25 **last few years that would affect how**

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1 investigations are conducted --

2 **A. No.**

3 **Q. -- is that right?**

4 So I would like to switch gears a
11:06:23 5 little bit and talk about performance reviews at
6 UnitedHealth.

7 Does UnitedHealth have a policy
8 related to employee performance reviews?

9 **A. There's not a policy. There is a**
11:06:40 10 **procedure with procedure documents out there, but**
11 **I'm not aware of an official policy.**

12 **Q. So would these procedure documents**
13 **you referred to be a part of an employee handbook?**

14 **A. Yes.**

11:07:03 15 **Q. Would they be reflected anywhere**
16 **else?**

17 **A. Well, our employee handbook is on**
18 **our company intranet site, and that's where they**
19 **would be reflected. They're also reflected in the**
11:07:17 20 **people soft tool that we have available, where the**
21 **actual reviews are completed. There's documents**
22 **for employees and managers.**

23 **Q. Can you give me kind of a general**
24 **overview of what that procedure for performance**
11:07:37 25 **reviews entail?**

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1 **A. Yes. There are performance reviews**
2 **that are what's considered a common review, which**
3 **is a proactive review given yearly regardless of**
4 **performance deficiencies. And that procedure**
11:07:57 5 **involves typically the employee being asked for a**
6 **self-evaluation, the manager collecting colleague**
7 **feedback, and the manager providing their**
8 **assessment based on their consideration of those**
9 **things as well as their own knowledge and**
11:08:14 10 **information to produce their common review.**

11 **For the second type of review, it's**
12 **what's called an interim review, and we consider**
13 **interim reviews to be both proactive and reactive,**
14 **meaning they can be done just dictated by the**
11:08:37 15 **business, the part of the business requires**
16 **perhaps. But more commonly they're done when**
17 **there are concerns with performance that need to**
18 **be addressed.**

19 And in that process there are -- the
11:08:49 20 only requirement in that process, is to have the
21 manager complete the interim review. But a
22 typical part of that process would also be to
23 collect colleague feedback to assist the manager
24 in making the proper assessment.

11:09:06 25 **Q. And when you say collect colleague**
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1 feedback, is that -- is that done informally by
2 the manager?

3 **A. It can be. Typically it is done in**
4 **the system. They send a request through the**
11:09:21 5 **people's soft tool for a person to complete a**
6 **colleague review.**

7 **Q. And you said that's part of the**
8 **common review process as well?**

9 **A. Yes.**

11:09:38 10 **Q. So is that, reaching out for**
11 **colleague feedback, is that a requirement for**
12 **these reviews -- for the common review?**

13 **A. No.**

14 **Q. So is that done at the discretion of**
11:09:59 15 **the manager?**

16 **A. Yes.**

17 **Q. If the manager does seek out**
18 **colleague feedback for an employee's review, does**
19 **the manager select the colleagues to provide**
11:10:18 20 **feedback on that employee's performance?**

21 **A. It depends. Some managers ask the**
22 **employee to provide names that they can request**
23 **feedback from, and some managers will request**
24 **feedback from everyone on the team depending on**
11:10:32 25 **how large the team is. And some will request**

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1 feedback from those that interact regularly with
2 the individual, so that would have the most
3 information on the individual's performance.

4 Q. Okay. So it's discretionary?

5 A. Yes.

6 Q. And you said there's common review
7 and the interim review, are there other types of
8 performance reviews?

9 A. No.

10 Q. For the colleague feedback, would
11 they be -- well, I'll back up.

12 Is there a standard form used for
13 common reviews?

14 A. Yes.

15 Q. When colleagues are asked to provide
16 feedback on an employee, is that feedback -- does
17 it track the form with the common review format?

18 A. Yes.

19 Q. So the colleagues are asked to
20 provide feedback on the same criteria that are
21 present in the common review; is that right?

22 A. No.

23 Q. Okay. How is it different?

24 A. There are questions for colleague
25 feedback to, first of all, identify the

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1 relationship between the colleague and the person
2 they're getting feedback on. And then the request
3 is for -- to determine -- the request is what
4 could they do better, what are they doing well.

5 So in essence, that's not a quote,
6 but it is the -- so there's approximately four
7 questions that are asked. So it is not the same
8 format.

9 Q. Okay. And are those colleague
10 reviews used for any other purposes other than
11 informing the, either the common review or the
12 interim review?

13 A. Not -- not as I am understanding the
14 question. So no, I don't think so.

15 Q. For the colleague feedback on common
16 reviews and interim reviews, would a person -- the
17 employee being evaluated be provided with their
18 colleagues' feedback?

19 A. They may in general be provided with
20 some information. But they're not provided with
21 the actual review -- colleague reviews themselves,
22 and they're not necessarily given -- and typically
23 given the identity of the person giving the
24 feedback.

25 So the manager may give a sentence

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1 or two during the review to assist with
2 performance conversations, but there's no specific
3 identifying information provided.

4 Q. Okay. But the -- is it correct that
5 the manager can identify who -- which colleagues
6 provided what feedback?

7 A. Yes.

8 Q. What is a Corrective Action Form?

9 A. A corrective action plan actually is
10 what we refer to it as, and it is what other
11 organizations may call a write-up or some sort of
12 document to document that there is a concern,
13 whether it be for performance, inappropriate
14 behavior, policy violation, something like that.

15 So it is a document utilized to address a
16 performance or behavioral conduct issue.

17 Q. And are there -- is there a
18 particular policy at UnitedHealth that governs how
19 these corrective action plans are used?

20 A. There's not a policy. There is a
21 procedure.

22 Q. And is this procedure similar to the
23 performance review procedure?

24 A. No.

25 Q. Okay. I'll back up. Is there --

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1 would this procedure be documented in any
2 UnitedHealth documents?
3 A. There are UnitedHealth Group
4 documents that have information on the corrective
5 action process, yes.

6 Q. What would those documents be?

7 A. In the employee intranet site there
8 are -- there's a document for managers that is for
9 corrective action guidance. There are corrective
10 action plan examples to assist the manager in how
11 to write one, and there's also documents to help
12 them in the system to create the actual form
13 itself.

14 Q. Is there a procedure for an employee
15 to dispute the substance of a corrective action
16 plan?

17 A. Yes.

18 Q. And what is that procedure?

19 A. The internal dispute resolution
20 procedure.

21 Q. Can you explain to me how that -- if
22 an employee took -- was just disputing the
23 substance of a corrective action plan, how they
24 would initiate the internal dispute resolution
25 process?

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1 **A. The first step to dispute a**
 2 **corrective action would be to enter employee**
 3 **comments, if they choose to go through the**
 4 **internal dispute resolution process. They can**
 5 **enter comments regardless; but part of the process**
 6 **is to have them enter comments and speak with**
 7 **their manager about those comments.**

8 **Q.** What would the next step be in the
 9 IDR process?

10 **A. The employee would -- if they're not**
 11 **able to get resolution from the manager's**
 12 **conversation about their comments, then they would**
 13 **submit what's called an internal dispute**
 14 **resolution form to employee relations indicating**
 15 **what they're disputing, why.**

16 **Q.** So if an employee didn't submit the
 17 IDR form and they just disputed a corrective
 18 action plan through their comments, the IDR
 19 process wouldn't be initiated?

20 **A. No.**

21 **Q.** So it requires the employee to
 22 affirmatively reach out to the --

23 **A. Yes.**

24 **Q.** So are there various levels within
 25 the corrective action plan framework?

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1 **A. Yes.**
 2 **Q.** Can you explain to me about those?
 3 **A. There is an initial level, what's**
 4 **called an elevated level, and what's called a**
 5 **final level. They are not required to be**
 6 **progressive, or there's no particular level that a**
 7 **manager is required to use.**

8 The initial level is for maybe a
 9 first -- typically can be used for a first time
 10 corrective action for a kind of less egregious
 11 violation, or a performance concern that's not
 12 been documented through the corrective action
 13 process.

14 The elevated could also be used for
 15 similar reasons, but may be considered to be more
 16 of a serious performance issue, or more a serious
 17 violation of policy or behavior. But it's at the
 18 manager's discretion.

19 And then the final level would be
 20 considered the level used for the most severe
 21 of -- performance issues that have been either
 22 previously documented or extremely egregious, and
 23 also egregious policy violations or inappropriate
 24 behavior.

25 **Q.** And for the final level of a

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1 corrective action plan, at that point, typically,
 2 is that -- is the final corrective action plan
 3 filed immediately prior to termination typically?

4 **A. No. Typically it is filed -- well,**
 5 **I guess I'm not sure what immediately means. But**
 6 **typically the final level is issued, and then the**
 7 **employee would be terminated should they continue**
 8 **to have an issue.**

9 **Q.** So generally there is still an
 10 opportunity for an employee to correct --

11 **A. Yes.**

12 **Q.** -- their behavior or performance?

13 Is there any circumstance in which an
 14 employee would not be able to provide their own
 15 comments or feedback on a corrective action plan?

16 **A. Not that I am aware of. Once the**
 17 **corrective action is submitted, the employee gets**
 18 **an email notifying them that there is a corrective**
 19 **action, and they can provide comments if they**
 20 **choose to.**

21 **Q.** Just going back to the performance
 22 reviews for a moment. We've discussed the common
 23 review and the interim review. Would there be any
 24 reason why a performance review would be submitted
 25 after an employee was terminated?

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1 **A. Timing, typically. The performance**
 2 **review process is a little extensive, so managers**
 3 **start completing them in the fall. And typically,**
 4 **then, they're making decisions on -- financial**
 5 **decisions, following that. So it's kind of this**
 6 **long process, so it is possible that an employee**
 7 **could be terminated in between those timeframes**
 8 **and that the corrective action would be in the**
 9 **system.**

10 **Q.** Sorry, I'm not talking about the
 11 corrective action plan.

12 **A. Sorry about that.**

13 **Q.** The common review.

14 **A. Yes. The common review would be in**
 15 **the system.**

16 **Q.** Okay. I'd like to shift gears again
 17 and talk more generally about UnitedHealth's
 18 employee handbook and other policies.

19 You said before that UnitedHealth
 20 has an employee handbook available on its intranet
 21 site, correct?

22 **A. Yes. It's -- we call it -- the**
 23 **intranet essentially -- the policy area of our**
 24 **intranet is the handbook.**

25 **Q.** So what other policies are included

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1 on the intranet?

2 **A. There's an attendance policy,**
3 **there's a policy on -- there's a code of conduct.**
4 **There's a policy on personal conduct. There's a**
5 **policy on workplace violence. And there's a**
6 **policy on harassment, retaliation. So there's a**
7 **non-retaliation policy, harassment policy. There**
8 **are a lot of policies. So I can keep going. Do**
9 **you want me to keep going? I can if you want.**

11:25:43 10 **Q. I think that's fine.**

11 **A. Okay.**

12 **Q. Besides the corrective action plan**
13 **procedures, does UnitedHealth have other policies**
14 **governing termination of employees?**

11:26:06 15 **A. There's a -- there are various**
16 **policies that address things that could result in**
17 **termination. So, for example, the attendance**
18 **policy, within that attendance policy it talks**
19 **about how many unplanned absences might result in**
11:27:01 20 **a termination, so...**

21 And then there's also a document in
22 our intranet site that I wouldn't consider a
23 policy, but it talks about employee termination.
24 Primarily how to enter it, what to do if it's an
11:27:21 25 involuntary situation, who to call, things like

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1 that.

2 **Q. And could you walk me through the**
3 **process of what would happen if a supervisor**
4 **indicated their employee hadn't met the criteria**
11:27:37 5 **for their corrective action plan, and what they**
6 **would do to initiate the termination procedure?**

7 **A. Yes. The manager would contact**
8 **employee relations through HRdirect and open a**
9 **case, and one of our employees would contact the**
11:27:59 10 **manager to discuss the concerns to kind of**
11 **understand what the manager is indicating is, you**
12 **know -- what the employee is not performing. The**
13 **employee relations person would review all the**
14 **documents previously issued to the employee to**
11:28:19 15 **ensure that the employee was -- or just kind of**
16 **understand what the employee was being asked to do**
17 **and understand the history of the employee. And**
18 **if they are -- they will provide a recommendation.**
19 **But it is the manager's discretion as to whether**
11:28:36 20 **or not they take that termination action.**

21 But employee relations typically
22 will provide their recommendation on that. And
23 then the manager will communicate the termination
24 to the employee if the decision is to terminate
11:28:48 25 the employee's employment.

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1 And then they let employee relations
2 know the conversation had been held, and the
3 employee relations will enter the termination into
4 the system.

11:28:59 5 **Q. And are there any circumstances**
6 **after a termination in which an employee would be**
7 **reinstated into their position?**

8 **A. Yes.**

9 **Q. What would those circumstance be?**

11:29:15 10 **A. If an employee was successful in**
11 **proving their internal dispute resolution case, or**
12 **if during that review of the internal dispute**
13 **resolution -- through the internal dispute**
14 **resolution process, it was determined that maybe**
11:29:29 15 **there weren't -- that the termination was not**
16 **warranted, or that a different decision could have**
17 **been made, there may be a recommendation to**
18 **reinstatement the individual.**

19 **Q. So you say a recommendation; who has**
11:29:44 20 **the final say on that?**

21 **A. There should -- I should have said**
22 **decision. The decision is with the leader that**
23 **reviews the internal -- that is responsible for**
24 **the internal dispute resolution, and they may**
11:29:59 25 **decide to reinstate the employee.**

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1 **Q. And in the last four years do you**
2 **know if UnitedHealth has reinstated an employee**
3 **after that employee's manager has terminated them?**
4 **MS. JEZIERSKI: I am going to**
11:30:13 5 **object. This is beyond the scope of the topics**
6 **listed in the 30(b)(6) Notice.**

7 **MS. DENNIS: You can answer if you**
8 **understood the question.**

9 **THE WITNESS: Yes.**

10 **BY MS. DENNIS:**

11 **Q. And what were those circumstances?**
12 **MS. JEZIERSKI: Same objection.**

13 **THE WITNESS: I'm not aware of the**
14 **particular circumstances from a company**
11:30:31 15 **representative standpoint. I'm aware of my own**
16 **cases and experiences, and I would say within the**
17 **last four years I do not know of any specifics.**
18 **However, I do know that there has been**
19 **reinstatements.**

11:30:49 20 **BY MS. DENNIS:**

21 **Q. Okay. Have there been any formal or**
22 **informal complaints regarding Sujatha**
23 **Duraimanickam related to age discrimination**
24 **excluding Frank Zhang's allegations?**

11:31:40 25 **A. Not that I'm aware of.**

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1 Q. Are there any documents you could
2 refer to that would show if there were any formal
3 or informal complaints against Ms. Duraimanickam?

4 A. There -- there are documents that I
5 could internally review to see if there were
6 complaints filed with HRdirect, which --

7 Q. Did you review those --

8 A. Yes.

9 Q. Sorry. So are there any other
10 documents that would reflect complaints or reports
11 of age discrimination made regarding Ms.
12 Duraimanickam?

13 A. Not that I'm aware of. Any
14 complaints that are filed, or made I should say,
15 would -- should be in the HR case system unless it
16 wasn't reported.

17 Q. Can you tell me a little bit about
18 how the HR case system works?

19 A. Yes. It is a database that we all
20 have access to. When I say we all, I mean people
21 in HRdirect. Employee relations has kind of a
22 heightened access, so to speak, so that we can
23 review confidential notes and such. And within
24 that system it is documented what the employee is
25 complaining about, or the manager, if they're

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1 contacting us about an employee. There's
2 documentation about conversations between the
3 manager and/or employee with the employee
4 relations person, email correspondence between the
5 two, if necessary, not always, but if relevant or
6 if the employee relations case manager thinks that
7 it's something that should be added.

8 And it's a -- it's a system of
9 records that we have the ability to look into
10 history with.

11 Q. And are those documents -- sorry.
12 Once an investigation has concluded,
13 are those documents kept in the HR case system?

14 A. It depends.

15 Q. What does it depend on?

16 A. If we're talking about internal
17 dispute resolution, that's a process of in and of
18 itself where the leader is highly responsible and
19 contains their documents and their decision.

20 If it's something that we have more
21 involvement in, we as an employee relations
22 professional, we may decide to add documents in to
23 the case system if we think it's relevant to the
24 situation. We will, you know, document the
25 conversation with the employee, et cetera.

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1 There wouldn't be a need to document
2 any type of corrective action things because we
3 have access to that in a different system.

4 Q. So, if a leader who is performing an
5 investigation for a claim of age discrimination
6 spoke with a witness, would that generally be
7 reflected in the HR case system?

8 A. If it is a regular employee
9 complaint and not an internal dispute resolution.

10 Q. And for the internal dispute
11 resolution, are documents related to those kept in
12 a different system?

13 A. There are -- the employee -- the
14 internal dispute resolution process requires that
15 we provide a written response to the employee, and
16 contained within that response typically it is
17 documented what was reviewed, and who was spoken
18 with.

19 Q. Does the IDR process require any
20 other documents other than the written response
21 and that document, what was reviewed and who was
22 spoken to?

MS. JEZIERSKI: Objection to form.

24 THE WITNESS: The employee's
25 internal dispute resolution filing. And both of

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1 those items, I should mention, are contained
2 within our HR system as well, so I may have been
3 unclear on that. So the response to the employee
4 as well as the employee's initial filing are
5 contained within our HR system.

6 Q. Okay. If a leader investigating a
7 claim of age discrimination spoke to a witness, is
8 there any requirement in the IDR process that
9 would require written notes of that -- sorry,
10 strike that.

11 Do you know if the documents created
12 in the IDR process are -- are kept after an
13 investigation is concluded?

14 A. Documents such as the employee's IDR
15 filing and the IDR response are kept in our case
16 system.

17 Q. Would there be any documents that
18 would be discarded after the conclusion of the IDR
19 process?

20 MS. JEZIERSKI: Objection; beyond
21 the scope of the notice.

22 THE WITNESS: Uh, I'm not sure if I
23 understand that question.

24 BY MS. DENNIS:

25 Q. Are there any documents that are --
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1 that are part of the IDR process that would not be
2 retained after the IDR process concluded?

3 MS. JEZIERSKI: Same objection.

4 THE WITNESS: The leader that is
5 investigating it may keep their records; that's
6 kind of up to them unless there's a requirement to
7 do so per legal hold. But outside of that, they
8 may or may not retain their notes. And so I can't
9 really speak to that because it's their
10 discretion.

11 BY MS. DENNIS:

12 Q. Okay. So the leader performing the
13 investigation may have the documents but you don't
14 know for sure?

15 A. Yes.

16 MS. DENNIS: This is a good time to
17 take a break and take a slightly longer break for
18 lunch. We can go off the record.

19 (Lunch break.)

20 MS. DENNIS: Back on the record.

21 BY MS. DENNIS:

22 Q. So I would like to ask you some
23 questions regarding Frank Zhang's report of age
24 discrimination to UnitedHealth.

25 Do you know if Yufan Zhang ever made
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1 was having a difficult time understanding what was
2 being said during the call. I know that it was
3 brought up in the initial conversations with me,
4 and I know that it was brought up in the follow-up
5 emails that he sent to us after the meeting. But
6 my recollection of the meeting was that he
7 wasn't -- he didn't get through what he wanted to,
8 and I was having a difficult time understanding
9 exactly what was being said. So I can't say for
10 certain. But I guess, if I had to guess, I would
11 say yes, he probably did say something.

12 Q. We can back up before we talk about
13 a specific call.

14 (Deposition Exhibit No. 3
15 was marked for identification.)

16 BY MS. DENNIS:

17 Q. You've just been handed a document
18 marked Exhibit 3; do you recognize this document?

19 A. Yes.

20 Q. What is this document?

21 A. This is an internal dispute
22 resolution filing from Yufan Zhang.

23 Q. And was this the first filing for
24 the internal dispute resolution process filed by
25 Mr. Zhang?

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1 a report of age discrimination to UnitedHealth?

2 A. The internal dispute resolution was
3 the first time that I am aware that he had made a
4 claim of age discrimination.

5 Q. Do you know if he made claims of age
6 discrimination outside of that internal dispute
7 resolution process, either before or after?

8 A. Not outside of the process. He
9 made -- if I remember correctly, he submitted his
10 internal dispute filing, and then after we had the
11 formal conference call between myself, Mr. Zhang
12 and Mr. Drysdale, he sent me an email with another
13 alleged comment that hadn't been brought up
14 before.

15 But prior to that, I'm not aware of
16 any complaint that he had filed with relation to
17 that at all.

18 Q. Okay. You said you had a formal
19 conference call with Frank and David Drysdale; is
20 that right?

21 A. Yes.

22 Q. And in that call did Frank raise his
23 claim of age discrimination?

24 A. I honestly don't know if it was
25 during that call, for a few reasons: One, I was

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1 A. Yes.

2 Q. And do you know what this dispute
3 resolution appeal form -- sorry, let me back up.

4 At the top of this document it's
5 marked Internal Dispute Resolution Appeal Form; is
6 that correct?

7 A. Yes.

8 Q. What is this form appealing?

9 A. This form is appealing his
10 termination.

11 Q. And what specific facts do you
12 understand this Internal Dispute Resolution Appeal
13 Form to be disputing?

14 MS. JEZIERSKI: Objection; form.

15 THE WITNESS: As I understand it,
16 Mr. Zhang, through this form, was disputing the
17 reasons for his termination, indicating he did not
18 have the performance issues that were reported in
19 his corrective actions that preceded his
20 termination. And he provided responses to the
21 items that were within that corrective action
22 plan, and talked about specific projects that he
23 had performed in and why they -- he shouldn't have
24 been held accountable for them.

25 BY MS. DENNIS:

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1 Q. So when Frank filed this form, who
2 was the first person to see it?
3 A. Well, technically it would have been
4 whoever receives our faxes and attaches them to
12:45:29 5 the cases. And then it would have been seen,
6 just -- not reviewed, but seen quickly by the
7 person who assigns cases to us. So those would be
8 the first two people and then myself would have
9 been the third.

12:45:43 10 Q. Do you know who else would have seen
11 this particular form?

12 A. In this case the third level manager
13 was first contacted, which is our process, to hear
14 his IDR, and so he did get a copy of this. I
12:46:05 15 assume he reviewed it, but I don't know if he did.

16 Q. Did anyone else see this form?

17 A. And then David Drysdale received a
18 copy of this form.

19 Q. And who is David Drysdale?

12:46:25 20 A. He is the vice-president of Optum
21 Human Capital, and he was chosen to hear
22 Mr. Zhang's IDR.

23 Q. Who chose him to hear?

24 A. I did.

12:46:42 25 Q. Did Mr. Drysdale have any personal
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1 or professional connection to Mr. Zhang other than
2 working -- also working at Optum?

3 A. He did not.

12:47:04 4 Q. Okay. So is that everyone who would
5 have received a copy of this particular form?

6 A. I'm just thinking to make sure. So,
7 there's a person that would have been -- oh,
8 there's a person that peer reviewed the internal
9 dispute resolution response, and as part of that
12:47:30 10 we supply them with the filing so they know what
11 the response should be speaking to. That would
12 have been somebody in employee relations on my
13 team.

14 And then our employment attorney
12:47:42 15 also received a copy of this at the time of the
16 response being reviewed for the same reason.

17 Q. And so you said peer reviewed; is
18 that right?

19 A. Yes.

12:47:56 20 Q. And that's just to make sure it --
21 everything is -- sorry, can you just explain that
22 one more time so I'm clear.

23 A. Sure. It's just to make sure, and
24 it's more of a glance at this, and then make sure
12:48:13 25 that the response doesn't have any typos or
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1 grammatical errors, and make sure that it at least
2 speaks to the primary issues that the employee
3 raised in the -- in the response --

4 Q. I see.

12:48:25 5 A. -- in the dispute.

6 Q. Is there any sort of timeline or
7 deadline to provide a response to an IDR Appeal
8 Form?

9 A. Are you speaking of the response to
12:48:41 10 the employee, I am assuming?

11 Q. Yes.

12 A. Yes. The typical timeframe to
13 receive a response after the meeting has been
14 held, the conference call that was mentioned, is
12:48:56 15 30 days.

16 Q. Okay. And so after you received the
17 IDR Appeal Form, was the next step to schedule
18 that conference call?

19 A. The next step was for me to identify
12:49:12 20 who was going to hear his internal dispute
21 resolution, and then to schedule the conference
22 call.

23 Q. And what was the purpose of the
24 conference call?

12:49:29 25 A. The purpose of the conference call
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1 is to give the employee a chance to raise any
2 additional issues that they may have. But the
3 primary purpose -- and so that they can verbally
4 communicate the concerns that have already been
12:49:47 5 typically submitted through the IDR, but it's also
6 for that person who investigates to ask questions,
7 so they understand what should be looked into and
8 investigated.

9 Q. I see. So there wouldn't have
12:50:01 10 been -- the investigation wouldn't have started
11 before that conference call?

12 A. Correct.

13 Q. Okay. What happens after the
14 conference call?

12:50:20 15 A. After the conference call I send the
16 investigator a template for the response; I give
17 him a deadline to send it back to me, with it
18 filled out after they have investigated, so we can
19 try to stay on track in terms of timing. So it's
12:50:41 20 an email to the investigator with the template
21 attached.

22 Q. What does the template include?

23 A. The template typically includes the
24 employee's name and address, the future dated, you
12:50:59 25 know, assuming their date -- future date that it
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1 supposed to be returned to the employee. The
2 dates that the internal dispute resolution was
3 filed, as well as the date that we had the
4 meeting. And then typically I will start them out
5 with bullets that indicate what the employee is --
6 what are the main allegations the employee has
7 alleged so that -- to make sure that the
8 investigator knows what direction they should be
9 beginning the investigation in.

12:51:27 10 Q. Okay.
11 (Deposition Exhibit No. 4
12 was marked for identification.)

13 BY MS. DENNIS:

14 Q. So you are being handed a document
12:52:04 15 marked Exhibit 4; do you recognize this document?

16 A. Yes.

17 Q. What is this document?

18 A. This is an email from Mr. Drysdale,
19 and this is him requesting the colleague reviews
12:52:21 20 from his review -- excuse me, Frank's review, and
21 apologizing for the delay in getting this
22 investigation closed out.

23 And then my response with the copied
24 and pasted colleague reviews, because I wasn't
12:52:38 25 able to pull it from the original form.

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1 MS. DENNIS: Let's mark this.
2 (Deposition Exhibit No. 5
3 was marked for identification.)

4 BY MS. DENNIS:

12:53:12 5 Q. You've been handed a document marked
6 Exhibit 5; do you recognize this document?

7 A. Yes.

8 Q. What is this?

9 A. This is the copied and pasted
12:53:21 10 colleague reviews from Frank's review.

11 Q. And where did -- where were these
12 reviews copied and pasted from?

13 A. From our internal review system, we
14 call it MAP.

12:53:44 15 Q. And so these reviews were initially
16 part of the colleague reviews requested by
17 Ms. Duraimanickam?

18 A. Yes.

19 Q. And all of the reviews included in
12:54:01 20 this document --

21 A. Yes.

22 Q. -- were from those? Do you know the
23 dates where these were -- when these were
24 collected?

12:54:14 25 A. I don't.

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1 Q. But these colleague reviews were not
2 collected after the investigative process had
3 started for this IDR; is that right?

4 A. No, they were not collected after.
12:54:32 5 I know an approximate date, if that's something
6 that you would like me to say.

7 Q. Sure.

8 A. Approximately, it was, like, June of
9 2016-ish, if I am remembering correctly, is when
12:54:46 10 they were collected.

11 Q. Okay. And were these reviews edited
12 in any way from their original source?

13 A. Formatting, yes. Otherwise, no. No
14 content, no material information, just truly the
12:55:09 15 format.

16 Q. Okay. As part of this investigative
17 process, did David Drysdale seek out any other
18 feedback from Mr. Zhang's colleagues?

19 A. Not that I'm aware of, aside from
12:55:29 20 Kim Myers, who was his colleague at the time,
21 because -- on some level, because she was no
22 longer his manager. And they still worked
23 together because she was a product owner of the
24 tools or the applications that he was responsible
12:55:49 25 for.

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1 Q. And can you explain a little bit
2 more about how Kim Myers was part of this
3 investigative process?

4 A. As I understand it, David spoke with
12:56:05 5 Kim to get her take on or -- to get an
6 understanding on Frank's performance deficiencies
7 that were reported as they related to his previous
8 performance when she was his manager, and to talk
9 about the current performance deficiencies related
12:56:35 10 to the products that she was an owner of.

11 Q. And are there any documents
12 reflecting this communication with Kim Meyers?

13 A. Not that I'm aware of.

14 Q. So your understanding is that it was
12:56:53 15 just -- David Drysdale just reported his
16 conversation --

17 A. Yes.

18 Q. -- and summarized --

19 A. Yes.

12:57:10 20 Q. Thanks.

21 (Deposition Exhibit No. 6
22 was marked for identification.)

23 BY MS. DENNIS:

24 Q. So you were just handed a document
12:57:55 25 marked Exhibit 6; do you recognize this document?

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1 A. Yes.
 2 Q. What is this document?
 3 A. **This is an email exchange or -- an**
 4 **email exchange between Frank and I, and then my**
 12:58:15 5 **forwarding it to David for his investigation.**
 6 Q. And in the first full paragraph on
 7 the first page of this document, you indicate that
 8 Frank has alleged that Sujatha made statements
 9 comparing young developers to old developers; is
 12:58:47 10 that correct?
 11 A. Yes.
 12 Q. And you say, this clearly needs to
 13 be investigated. We will need to add it to the
 14 allegations listed on his IDR response; is that
 12:58:55 15 accurate?
 16 A. Yes.
 17 Q. So when you sent this email to David
 18 Drysdale, do you know if it changed how the
 19 investigation was being conducted?
 12:59:15 20 A. **I do not think that it changed the**
 21 **way the investigation was being conducted, except**
 22 **for that it was an added allegation to**
 23 **investigate.**
 24 Q. And would this type of investigation
 12:59:31 25 -- would there be different types of evidence that
 JOLYNN GRAHAM REPORTING

1 David would need to look for as part of the
 2 investigation?
 3 A. **It depends on what's being alleged.**
 4 **In Frank's case he alleged that two statements**
 12:59:48 5 **were made that led him to believe that he was**
 6 **being discriminated against by his age, and**
 7 **therefore his age -- and so therefore those two**
 8 **statements were investigated.**
 9 Q. In the part of the first page of
 13:00:08 10 this document -- or part of this email chain from
 11 Frank, and the paragraph that begins, at first; do
 12 you see that?
 13 A. Yes.
 14 Q. So do you see the sentence that
 13:00:43 15 begins, if you had chances? About three lines
 16 down in this paragraph (indicating).
 17 A. Yes, I do.
 18 Q. So this sentence reads, if you had
 19 chances to review my explanation about these five
 13:01:05 20 examples at first, which I sent to HR along with
 21 my dispute form, you should see that Sujatha said,
 22 on purpose, something not good for me, and hide
 23 the real situations and background stories which
 24 tell what were the real root causes about the
 13:01:20 25 issues, especially Sujatha always ignored the
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1 errors caused by her. This is typical
 2 discrimination behavior. The same discrimination
 3 occurred to the other examples stated by Sujatha.
 4 I can explain those examples later.
 13:01:39 5 Is that an accurate reading of that
 6 paragraph?
 7 A. Yes.
 8 Q. Okay. So do those sentences
 9 indicate that there was more -- his allegations of
 13:01:55 10 age discrimination encompassed more than a
 11 conversation that he had with her?
 12 MS. JEZIERSKI: Objection; form.
 13 THE WITNESS: My interpretation of
 14 what he was saying, is that he was pointing to
 13:02:13 15 discrimination as a reason for the performance
 16 discrepancies being reported. That does not to me
 17 indicate that there was any indication that this
 18 had anything to do with anything besides what was
 19 being reported.
 13:02:29 20 So he's providing an assumption that
 21 he believes is typical for somebody to give a
 22 wrong -- provide incorrect information about
 23 someone if they're discriminating against them.
 24 BY MS. DENNIS:
 13:02:48 25 Q. I see. So going to the last
 JOLYNN GRAHAM REPORTING

1 paragraph on this first page of Exhibit 6 that
 2 begins with, during; do you see that paragraph?
 3 A. Yes.
 4 Q. Okay. So that paragraph begins,
 13:03:21 5 during my last two months in Optum each time when
 6 Sujatha met me in one-on-one meeting, Sujatha
 7 always said I had negative values to the team
 8 without giving examples. But just saying how good
 9 the other young teammates did. Did I read that
 13:03:41 10 correctly?
 11 A. Yes.
 12 Q. Is it your understanding that is the
 13 only direct allegation of age discrimination that
 14 Frank made?
 13:03:55 15 A. **My recollection is that he made an**
 16 **allegation that she said -- that she said it**
 17 **differently, that young people don't give as good**
 18 **of -- I'm trying to think of it verbatim and it's**
 19 **not going to come to me, but I'm sure I have it,**
 13:04:14 20 **I'm sure it's in one of these documents. But old**
 21 **people don't have as much values as young people,**
 22 **is my recollection of his allegation.**
 23 And then there was a -- I thought,
 24 if I remember correctly, that there was a second
 13:04:29 25 comment that he alleged that she had made about
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1 age, so it wasn't actually -- and in this
2 statement it doesn't seem to me like he is saying
3 she is saying anything about age, but that she's
4 talking about how good the other teammates did
5 that were young.

13:04:50

6 **Q.** I see. Was it your understanding
7 that Frank was making allegations of age
8 discrimination beyond statements made by Ms.
9 Duraimanickam in their one-on-one meetings?

13:05:14

10 MS. JEZIERSKI: Objection; form.

11 MS. DENNIS: Sorry, I can rephrase.

12 BY MS. DENNIS:

13 **Q.** Aside from the comments that you
14 identified that Frank alleged Sujatha had made --
15 let me just start over.

13:05:30

16 My understanding is -- is it correct
17 that Frank reported a few instances of Sujatha and
18 one-on-one meetings making comments that were
19 discriminatory based on age?

13:05:57

20 **A.** I would say two.

21 **Q.** Okay. Is it your understanding that
22 he was making any allegations of age
23 discrimination beyond one-on-one meetings that he
24 had held with Sujatha?

13:06:11

25 **A.** I know that Frank was saying he felt
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1 that this was all -- all of this was drummed up as
2 a result of her not wanting somebody of his age to
3 be on the team. I know that was his conjecture.

4 **Q.** Going back to this last paragraph,
5 do you see about three lines up from the bottom,
6 the beginning, if you have chances?

13:06:36

7 **A.** Yes, I do see that.

8 **Q.** Okay. So this sentence reads, if
9 you have chances to talk to my teammates, Brady or
10 Mary on Kim's team, you should know I am most
11 experienced and technical developer in my team; is
12 that an accurate reading of that sentence?

13:06:57

13 **A.** Yes.

14 **Q.** As part of this investigation, was
15 -- well, let me back up.

13:07:13

16 Do you know who Brady is as referred
17 to in this sentence?

18 **A.** I think that Brady is a member of
19 the team, that he's one of the developers.

13:07:30

20 **Q.** Okay. Is that Brady Grimm?

21 **A.** Yes, that's my understanding of who
22 Brady is.

23 **Q.** And do you know who Mary is as
24 referred to in that sentence?

13:07:42

25 **A.** That is Mary Zuelke perhaps. I know
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1 at the time, I'm sure that I looked at it. But my
2 understanding now, three years later, would be
3 that it's Mary Zuelke.

4 **Q.** And as part of this investigation,

13:07:58

5 were either Brady or Mary spoken with as part of
6 the investigation?

7 **A.** Not to my knowledge. But I do know
8 that they -- at least Mary supplied Exhibit 5, a
9 colleague review. If I'm -- if I remember

13:08:25

10 correctly, I could be mixing that up. Maybe --
11 there's a lot of names here. No, right here,
12 okay. Yeah.

13 **Q.** Do you see what page on Exhibit 5
14 that -- that Mary's review appears on?

13:08:45

15 **A.** It's the page labeled
16 UHG-Zhang000921. It starts on that page and
17 continues to Zhang000922.

18 **Q.** On the page marked UHG-Zhang00092,
19 Exhibit 5, do you see the last full paragraph on
20 that page?

13:09:30

21 **A.** The paragraph at the bottom of the
22 page?

23 **Q.** Yes.

24 **A.** Yes, I do.

13:09:39

25 **Q.** Okay. Do you see the sentence three
JOLYNN GRAHAM REPORTING

1 lines down on that paragraph that begins with,
2 with the group?

3 **A.** Yes.

4 **Q.** That sentence reads, with the group
5 becoming much bigger and the makeup of members is
6 much younger, the collaboration of team members
7 seems to be in a fashion that is not comfortable
8 to Frank. Is that an accurate reading of that
9 sentence?

13:10:00

10 **A.** Yes.

11 **Q.** As part of the investigation into
12 Frank's claim of age discrimination, was that --
13 was that part of Mary's colleague review referred
14 to?

13:10:10

15 MS. JEZIERSKI: Objection; form.

16 THE WITNESS: Referred to where?

17 MS. DENNIS: Sorry, I can rephrase
18 that.

19 BY MS. DENNIS:

13:10:40

20 **Q.** As part of the investigation, was
21 this particular part of Mary's colleague review
22 looked into in any way?

23 **A.** Not to my knowledge. But Mr.
24 Drysdale was responsible for the investigation, so
25 I can only speak to what I know. But not to my

13:11:02

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1 **knowledge.**

2 **Q.** Just to clarify, I am still asking
3 you questions as a representative of UnitedHealth.

4 **A. Thank you.**

13:11:17 5 **Q.** Could you turn, on the same exhibit,
6 to the page marked UHG-Zhang000917. Do you see
7 the top of the page, the name Jennifer Viveros?

8 **A. Yes.**

13:12:13 9 **Q.** So what follows from that name, a
10 colleague review prepared by Jennifer Viveros
11 Aguilar regarding Frank Zhang?

12 **A. Yes.**

13 **Q.** So do you see what's marked number 3
14 underneath the name Jennifer Viveros Aguilar?
13:13:15 15 Sorry, let me be more clear because there's a
16 couple of these.

17 So there is a heading that is labeled
18 number 3, what could he or she have done better;
19 do you see that?

13:13:30 20 **A. Yes.**

21 **Q.** Okay. I will just read this out
22 loud so we have it on the record. Underneath that
23 it reads, Frank could work on his communication
24 skills, and not been afraid to ask questions when
13:13:52 25 something is not fully understood. Over the past

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1 months we had many changes in the team and have
2 noticed Frank has struggled with this. For
3 example, when developing the admin tool, we went
4 over a couple phases and he was reporting to be on
13:14:13 5 track to completing, but then during testing
6 encounter he had not fully understood the task.

7 In my opinion it was a communication issue on all
8 sides since we went through many iterations of the
9 design of the tool but I think Frank should have
13:14:32 10 stopped at the point of confusion and asked before
11 continuing; is that an accurate reading?

12 **A. Yes.**

13 **Q.** As part of the investigation into
14 Frank's claims of age discrimination, was Jennifer
13:14:52 15 Aguilar's colleague review taken into account?

16 **A. Yes.**

17 **Q.** Was the particular statement she
18 made regarding in her opinion it was a
19 communication issue on all sides since we went
13:15:11 20 through many iterations of the design of the, tool
21 was that specifically investigated?

22 MS. JEZISKI: Objection; form.

23 THE WITNESS: Not to my knowledge.

24 BY MS. DENNIS:

13:15:31 25 **Q.** So did David Drysdale, as part of
JOLYNN GRAHAM REPORTING

1 the investigation, speak to anyone else besides

2 Kim Myers?

3 **A. Yes, he spoke with Sujatha.**

4 **Q.** And what did he speak to Sujatha

13:15:51 5 about?

6 **A. My understanding is he spoke to**
7 **Sujatha about the allegations and comments made**
8 **about age, and he spoke to Sujatha about the**
9 **overall termination decision and why she made the**
13:16:08 10 **decision to terminate. And talked about the**
11 **specific items that were mentioned -- sorry, let**
12 **me just take a step back, I'm thinking at the same**
13 **time.**

14 So he spoke with her about the
13:16:33 15 age-related comments that Mr. Zhang alleged. And
16 he spoke with her about the review that she gave
17 him about the corrective actions that she gave
18 him, and about the ultimate decision to terminate.

19 **Q.** Is that everything?

13:16:55 20 **A. Yes.**

21 **Q.** Okay.

22 (Deposition Exhibit No. 7
23 was marked for identification.)

24 BY MS. DENNIS:

13:17:47 25 **Q.** You were just handed a document
JOLYNN GRAHAM REPORTING

1 marked Exhibit 7; do you recognize this document?

2 **A. Yes.**

3 **Q.** What is this document?

4 **A. This is an email exchange between**
13:17:57 5 **David and I regarding the status of the internal**
6 **dispute resolution response.**

7 **Q.** And in the email from David Drysdale
8 to you, sent January 24, 2017 at 1:51 p.m., does
9 that reflect a conversation Mr. Drysdale had with
13:18:29 10 Kim Myers?

11 **A. Yes.**

12 **Q.** And what does that indicate about
13 that conversation?

14 **A. That she was the final person he was**
13:18:39 15 **looking to speak with before making a**
16 **determination of whether or not he should deem the**
17 **termination warranted.**

18 **Q.** So besides this email, is there
19 anything that records his conversation with Kim
13:18:58 20 Myers?

21 **A. He may have taken notes. I do not**
22 **have access to those notes or know if he did take**
23 **notes. I just know that he spoke with her and**
24 **there's nothing formal that I'm aware of.**

13:19:15 25 **Q.** And so between the conference call
JOLYNN GRAHAM REPORTING

1 that you held with Frank and David Drysdale, and
 2 -- sorry, let me strike that.
 3 (Deposition Exhibit No. 8
 4 was marked for identification.)

13:20:22 5 BY MS. DENNIS:

6 Q. You were just handed a document
 7 marked Exhibit 8; do you recognize this document?

8 A. Yes.

9 Q. What is this document?

13:20:32 10 A. **The first page -- actually this is
 11 the employee's response for his -- to his IDR.**

12 Q. You said it's the employee's
 13 response to his IDR?

14 A. **Response to the employee.**

13:20:49 15 Q. Okay, sorry. And was this the last
 16 document that Mr. Zhang received as part of the
 17 IDR process?

18 A. **Yes, I believe so.**

19 Q. So this would be the final closing
 13:21:09 20 out step of this process?

21 A. Yes.

22 Q. Okay. And does this letter reflect
 23 everything that UnitedHealth relied on to reach
 24 its conclusion that his termination, Mr. Zhang's
 13:21:31 25 termination, should stand?

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1 A. Yes.

2 Q. Can you turn to the second page of
 3 this letter. Do you see the second full paragraph
 4 from the bottom that begins, with respect to your
 13:22:15 5 claim?

6 A. Yes.

7 Q. I'll read that out loud. With
 8 respect to your claim that Ms. Duraimanickam made
 9 a comment that young people made more
 13:22:26 10 contributions and old people were not worthy of
 11 what company pays for and that, quote, "old people
 12 have less values than young," end quote, people, I
 13 was unable to substantiate your claim. I spoke
 14 with Ms. Duraimanickam who denied making any
 13:22:45 15 statements related to age. Is that a correct
 16 reading?

17 A. Yes.

18 Q. So does that paragraph indicate that
 19 that was -- that Mr. Drysdale's conversation with
 13:23:05 20 Ms. Duraimanickam was the only basis for him
 21 finding that he was unable to substantiate
 22 Mr. Zhang's claim?

23 MS. JEZIERSKI: Objection; form.

24 THE WITNESS: My understanding of
 13:23:25 25 what he's saying here, is that he was unable to

JOLYNN GRAHAM REPORTING

1 substantiate the claims that she made two comments
 2 that are in the paragraph related to age.

3 BY MS. DENNIS:

4 Q. Does this letter indicate that Mr.
 13:23:44 5 Drysdale spoke to anyone else in an attempt to
 6 substantiate this claim?

7 A. No.

8 Q. Can you look at the paragraph right
 9 above that that begins, with respect to your
 13:24:03 10 contention; do you see that?

11 A. Yes.

12 Q. The last sentence of that paragraph
 13 reads, I found that your final CAP was an
 14 objective reflection of your performance; is that
 13:24:18 15 an accurate reading?

16 A. Yes.

17 Q. Based on -- strike that.
 18 Was this finding that Mr. Zhang's
 19 final CAP was an objective reflection of his
 13:24:57 20 performance based on any evidence that was not
 21 collected from -- sorry, I will go back on that
 22 too.

23 Does this paragraph indicate what
 24 evidence Mr. Drysdale relied upon to reach his
 13:25:29 25 conclusion that his -- that Mr. Zhang's final CAP

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1 was an objective reflection of Mr. Zhang's
 2 performance?

3 A. **I'm sorry, would you be able to
 4 repeat the question.**

13:25:42 5 MS. DENNIS: Sure. Can you read
 6 that back.

7 (The requested portion was read by
 8 the court reporter.)

9 THE WITNESS: Yes.

13:22:26 10 BY MS. DENNIS:
 11 Q. And what evidence was that?
 12 A. **Feedback from his former supervisor,
 13 peers, and the client, as well as -- or I
 14 shouldn't say as well as, those items, so he
 13:26:31 15 indicates that he reviewed information from his
 16 supervisor, peers and the client.**

17 Q. And as far as feedback from peers as
 18 referred to here, is that reflecting only the
 19 colleague feedback that was reflected in
 13:26:59 20 Exhibit 6?

21 A. **That's my understanding.**

22 Q. Okay. And as far as feedback from
 23 the client, does that only refer to the
 24 conversation that Mr. Drysdale had with Kim Myers
 13:27:18 25 as a part of this investigation?

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1 **A. I would venture to say that some of**
2 **the information was from Kim, as well as the**
3 **information that was provided in the peer feedback**
4 **about his work product, as a result -- or as part**
13:27:46 5 **of -- and how it impacted the client too.**
6 So to me it says that he reviewed --
7 or that there was feedback from his previous
8 supervisor, peers and the client, but the peers
9 also in the colleague feedback provided
13:28:03 10 information about the impact to the client as
11 well, so it could have been --
12 **Q. And who is the client?**
13 **A. My understanding of the client is**
14 **Kim Myers.**
13:28:14 15 **Q. And in this document when Mr.**
16 **Drysdale refers to the client, that's referring to**
17 **Kim Myers; is that your understanding?**
18 **A. Actually Kim Myers is the owner of**
19 **the product, that impacts the client. So I guess**
13:28:33 20 **I don't know who her end-user is, because I'm not**
21 **within the technology department. But the client**
22 **would have been the end-user of Kim Myers'**
23 **products.**
24 **Q. Okay. And in this paragraph, 'your**
13:28:51 25 **former supervisor' refers to Ms. Duraimanickam; is**

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1 that correct?
2 **A. Yes.**
3 **Q. So, the first paragraph of this**
4 **page, it's not a full paragraph, but, do you see**
13:29:19 5 **the last sentence that begins, I found that the**
6 **termination --**
7 **A. Yes.**
8 **Q. So that sentence reads, I found that**
9 **the termination of your employment was appropriate**
13:29:33 10 **based on a thorough assessment of your**
11 **performance; is that a correct reading?**
12 **A. Yes.**
13 **Q. So when Mr. Drysdale refers to a**
14 **thorough assessment of Frank's performance, is it**
13:29:53 15 **your understanding that that did not include**
16 **looking at -- sorry, let me back up.**
17 When Mr. Drysdale refers to a
18 thorough assessment of Frank's performance, what
19 do you understand that to refer to?
13:30:15 20 **A. I understand that to be referring to**
21 **David's review of all of the documents that were**
22 **taken into consideration when determining his**
23 **termination -- determining that termination would**
24 **be the decision based on his performance.**
13:30:36 25 **Q. And those documents -- did those**

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1 documents taken into consideration include any
2 documents that were not -- sorry, let me back up.
3 So those documents included
4 performance reviews created by Ms. Duraimanickam;
13:31:03 5 is that correct?
6 **A. They did include that, yes.**
7 **Q. And those documents taken into**
8 **consideration included colleague reviews put**
9 **together by Mr. Zhang's colleagues; is that**
13:31:17 10 **correct?**
11 **A. Yes.**
12 **Q. And what another documents besides**
13 **those were taken into consideration?**
14 **A. His corrective actions, his initial**
13:31:29 15 **corrective action, and his final corrective**
16 **action.**
17 **Q. And were those documents prepared by**
18 **Ms. Duraimanickam?**
19 **A. To my knowledge, yes, they were.**
13:31:36 20 **Q. Were there any other documents taken**
21 **into consideration as part of this investigation?**
22 **A. Not to my knowledge. Oh, his**
23 **internal dispute resolution filing and all the**
24 **subsequent emails, too.**
13:32:08 25 **Q. So would it be correct to say that**

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1 the specific documents related to a particular
2 work task were not reviewed? Sorry, that was kind
3 of a vague way of saying that.
4 So is it safe to say that Mr.
13:32:42 5 Drysdale did not look at particular task-related
6 documents that were disputed in Mr. Zhang's IDR
7 letter?
8 MS. JEZIERSKI: Objection; form.
9 THE WITNESS: Yes. Mr. Drysdale,
13:33:07 10 first of all, isn't responsible for Mr. Zhang's
11 work product, so he would have a difficult time
12 having any access or ability to interpret those
13 tasks, especially when they are heavily technology
14 -- technological. And also part of the internal
13:33:31 15 dispute resolution process, part of the
16 interviewer's responsibility, is to look over what
17 was assessed when making that initial decision to
18 terminate, to see if those items warranted
19 termination, not to look at the specific tasks
13:33:45 20 that the individual brought forward as part of
21 their disagreement.
22 **Q. Okay. So what happened after**
23 **Mr. Zhang was sent this letter?**
24 MS. JEZIERSKI: Objection; form.
13:34:07 25 BY MS. DENNIS:

JOLYNN GRAHAM REPORTING

1 **Q.** After this letter was sent to
2 Mr. Zhang, was there any remaining procedures left
3 to follow up within the IDR procedural framework?

4 **A. David would have sent me a copy of**
13:34:28 5 **the signed response. I would have attached it to**
6 **the case. I would have added any final notes into**
7 **the case, and I would have closed the case in our**
8 **internal HR system.**

9 Those would be the process steps
13:34:43 10 that follow the employee receiving, or being sent
11 the internal dispute resolution response.

12 **Q.** Were you aware that Mr. Zhang filed
13 a complaint with the EEOC?

14 MS. JEZIERSKI: Objection; form.

13:35:08 15 And outside the scope of the notice.

16 MS. DENNIS: You can answer if you
17 understand the question.

18 THE WITNESS: Yes, I was aware that
19 he filed a claim with the EEOC.

13:35:32 20 BY MS. DENNIS:

21 **Q.** Did you have any role in responding
22 to the EEOC charge?

23 MS. JEZIERSKI: Objection; form.

24 THE WITNESS: No.

13:35:48 25 MS. DENNIS: Can we go off the
JOLYNN GRAHAM REPORTING

1 record for a few minutes. Why don't we take a
2 quick break.

3 (Short break.)

4 BY MS. DENNIS:

13:45:47 5 **Q.** Before we went off the record I had
6 asked if you were aware of the claim Mr. Zhang had
7 filed with the EEOC, and your counsel objected to
8 that topic being outside of the 30(b)(6) topics.

9 Is it your understanding that --

13:46:15 10 actually, could you find Exhibit 1 in front of you
11 -- or do you have --

12 **A. Oh, the first one?**

13 **Q.** Yep.

14 **A. Got it.**

13:46:55 15 **Q.** Can you turn to page 7 of this
16 document.

17 **A. Yes.**

18 **Q.** Do you see the paragraph marked with
19 the number 7?

13:47:07 20 **A. Yes.**

21 **Q.** And that paragraph reads,
22 Respondent's investigation and/or assessment of
23 Claimant's age discrimination claims, including
24 communication with Claimant's former co-workers
13:47:18 25 and supervisors, collection and recording of
JOLYNN GRAHAM REPORTING

1 statements, creation of reports, and any resulting
2 actions taken by Respondent.

3 And earlier today you said that you
4 were prepared to testify about this topic; is that
13:47:32 5 right?

6 **A. Yes.**

7 **Q.** Okay. Is it your understanding that
8 this topic does not include any investigation
9 taken as a result of Mr. Zhang's EEOC claim?

13:47:50 10 MS. JEZIERSKI: Objection; form.

11 THE WITNESS: Can I ask a clarifying
12 question?

13 MS. DENNIS: Sure.

14 THE WITNESS: Is number 7 about his
13:48:06 15 EEOC claim, or is it about his allegations of age
16 discrimination, because I'm not --

17 MS. DENNIS: I think his age
18 discrimination claims were a part of his EEOC
19 claim.

13:48:22 20 THE WITNESS: I would not be
21 prepared to speak about his EEOC claim as that's
22 not something I was involved in, except for that I
23 have knowledge of it.

24 BY MS. DENNIS:

13:48:34 25 **Q.** Okay. And who would have knowledge
JOLYNN GRAHAM REPORTING

1 of Mr. Zhang's EEOC claim?

2 **A. Our attorney.**

3 **Q.** You mean --

4 **A. Jen Service.**

13:48:50 5 **Q.** Can you spell that name.

6 **A. J-E-N-N-I-F-E-R. S-E-R-V-I-C-E.**

7 **Q.** Would anyone besides an attorney
8 have knowledge about Mr. Zhang's EEOC claim, to
9 your knowledge?

13:49:14 10 MS. JEZIERSKI: Objection; form.

11 THE WITNESS: Not to my knowledge.
12 (Deposition Exhibit No. 9
13 was marked for identification.)

14 BY MS. DENNIS:

13:49:55 15 **Q.** You're being handed a document
16 marked Exhibit 9. Do you recognize this document?
17 You can take a moment to look at it to see what
18 this is.

19 **A. Yes, I do.**

13:50:13 20 **Q.** What is this document?

21 **A. This is his Demand for Arbitration.**

22 **Q.** When was the first time you saw this
23 document?

24 **A. About a week and a half ago.**

13:50:38 25 **Q.** Are you familiar with the content of
JOLYNN GRAHAM REPORTING

1 this document?

2 **A. Yes.**

3 **Q.** And you understand that this
4 document reflects Mr. Zhang's claims of age
13:51:05 5 discrimination?

6 **A. Yes.**

7 **Q.** Can you turn to page 8 of this
8 document. Do you see the paragraph numbered 34?

9 **A. Yes.**

13:51:38 10 **Q.** Did UnitedHealth do any
11 investigation or research to verify or deny the
12 specific factual allegations reflected in this
13 paragraph?

14 **A. Can I refer to the internal dispute**
13:52:24 15 **resolution form?**

16 **Q.** Sure.

17 **A. The response.**

18 **Q.** Is that marked Exhibit 8?

19 **A. Yes, Exhibit 8. Thank you. I just**
13:53:16 20 **wanted to review the paragraph regarding his --**
21 **Mr. Drysdale's response to his allegation about**
22 **the termination being warranted.**

23 **Q.** So with regard to paragraph 34 of
24 Exhibit 9, was there any investigation aside from
13:53:53 25 what was reflected in Exhibit 8 to verify or deny

JOLYNN GRAHAM REPORTING

1 the factual allegations of this paragraph?

2 **A. If this project that's being**
3 **referred to in number 34, which is very vague and**
4 **difficult for me to understand which project this**
13:54:15 5 **might be talking about, especially, you know,**
6 **having little IT knowledge. But if this is**
7 **addressed in his corrective action, likely in the**
8 **progress update section of his elevated corrective**
9 **action, which we haven't taken a look at yet here,**
13:54:34 10 **but then, yes, it was reviewed.**

11 I can only speak to my assumption
12 that this item was addressed in either the initial
13 or the final level corrective actions, which would
14 have been reviewed by Mr. Drysdale.

13:54:51 15 **Q.** Do you see the paragraph marked 36
16 on page 8 of Exhibit 9?

17 **A. Yes.**

18 **Q.** You can take a couple of minutes to
19 just read through that. I don't think we need to
13:55:16 20 read it out loud. Just let me know when you've
21 had an opportunity to do that.

22 **A. Okay.**

23 **Q.** Do you know if there was any
24 investigation to verify or deny the facts in
13:56:07 25 paragraph 36, aside from the investigation Mr.

JOLYNN GRAHAM REPORTING

1 Drysdale engaged as part of the IDR process?

2 MS. JEZIERSKI: Objection; form.

3 THE WITNESS: I don't believe there
4 was an investigation, per se, outside of the IDR

13:56:29 5 -- actually, I don't know anything about the EEOC
6 claim. I'm sure there was something going on
7 there. But in terms of my knowledge, the internal
8 dispute resolution process was the investigation.

9 BY MS. DENNIS:

13:57:00 10 **Q.** Okay. Can you look at page 9 of
11 Exhibit 9, and look at paragraphs 37, 38 and 39,
12 and just let me know when you've had an
13 opportunity to read through those.

14 **A. Okay.**

13:58:23 15 **Q.** So I understand you aren't able to
16 testify as to if there was an investigation done
17 related to EEOC claim. But aside from that, and
18 the investigation undertaken by Mr. Drysdale as
19 part of the IDR process, do you know if there was
13:58:53 20 any investigation to verify or deny any of the
21 factual allegations in these paragraphs?

22 MS. JEZIERSKI: Objection; form.

23 THE WITNESS: There's -- to my
24 knowledge, again outside of the EEOC claim, like
13:59:11 25 you stated, and outside of the IDR process, there

JOLYNN GRAHAM REPORTING

1 would not be an investigation because there were
2 no claims made -- there were no claims made
3 outside of those processes.

4 BY MS. DENNIS:

13:59:24 5 **Q.** Okay. Could you turn to page 10 of
6 this Deposition Exhibit 9. Do you see the
7 paragraph numbered 43 on that page?

8 **A. Yes.**

9 **Q.** Can you just read through that and
14:00:01 10 let me know when you've had an opportunity to do
11 so.

12 **A. Was it just paragraph 43?**

13 **Q.** Just paragraph 43.

14 **A. Okay.**

14:00:24 15 **Q.** So aside from any potential
16 investigation as part of the EEOC claim, and
17 outside of the IDR investigation, did UnitedHealth
18 undergo any investigation to verify or deny any of
19 the facts in paragraph 43?

14:00:43 20 MS. JEZIERSKI: Objection; form.

21 THE WITNESS: Not outside of the IDR
22 process that I'm aware of.

23 BY MS. DENNIS:

24 **Q.** And I just have that same question
14:01:04 25 for paragraphs 46 and 47.

JOLYNN GRAHAM REPORTING

1 **A. I'm unaware of any investigation**
 2 **outside of, again, my knowledge of the EEOC claim,**
 3 **and the internal dispute resolution process, which**
 4 **would have been the official investigation into**
 5 **his termination.**

14:01:19 6 (Deposition Exhibit No. 10
 7 was marked for identification.)

8 BY MS. DENNIS:

9 **Q. You were just handed a document**
 14:02:43 10 **marked Exhibit 10; do you recognize this document?**

11 **A. Yes.**

12 **Q. What is this document?**

13 **A. This is a list of employees that**
 14 **were on the team that Mr. Zhang was on, in**
 14:02:56 15 **addition to their hire dates and their birth dates**
 16 **as well as their titles.**

17 **Q. And where would this document have**
 18 **been produced?**

19 MS. JEZIERSKI: Objection; beyond
 14:03:05 20 the scope of the 30(b)(6) notice.

21 MS. DENNIS: You can answer if you
 22 know the answer to the question.

23 THE WITNESS: I don't know the
 24 answer.

14:03:15 25 BY MS. DENNIS:

JOLYNN GRAHAM REPORTING

1 **Q. Do you recognize the format of this**
 2 **document?**

3 MS. JEZIERSKI: Same objection.

4 THE WITNESS: It looks like an Excel
 14:03:37 5 document.

6 MS. DENNIS: I don't have any more
 7 questions about that document.

8 BY MS. DENNIS:

9 **Q. I would like to shift gears and ask**
 14:03:45 10 **you questions in your personal capacity rather**
 11 **than in your capacity as the representative for**
 12 **UnitedHealth.**

13 **A. Okay.**

14 **Q. How long have you worked at**
 14:04:07 15 **UnitedHealth?**

16 **A. Eight and a half years I believe.**

17 **Q. And can you approximate, like, over**
 18 **the last year, how many claims of age**
 19 **discrimination you've been involved with in a**
 14:04:32 20 **professional capacity?**

21 **A. In the last year?**

22 **Q. Yes.**

23 **A. Um, maybe two.**

24 **Q. Is that pretty typical as far as,**
 14:04:45 25 **like, how often they come up in a year?**

JOLYNN GRAHAM REPORTING

1 MS. JEZIERSKI: Objection; form.

2 THE WITNESS: Yeah. Yes.

3 BY MS. DENNIS:

4 **Q. So would it be fair to say in the**
 14:05:00 5 **last eight years you've seen kind of in the**
 6 **ballpark about 15 age discrimination claims?**

7 **A. I did not, in the first -- I didn't**
 8 **start investigating age discrimination claims**
 9 **until April 2014. So I would not have had**
 14:05:24 10 **exposure in UnitedHealth Group in that capacity.**
 11 **So just maybe like 10 to 12 specifically related**
 12 **to age.**

13 **Q. Okay. Have any of the age**
 14 **discrimination claims you've dealt with since 2014**
 14:05:49 15 **been substantiated?**

16 MS. JEZIERSKI: Objection; form.

17 THE WITNESS: I don't recall. We
 18 work about 1,000 cases a year, so I'm not --
 19 between 500 and 1,000 cases a year, so I can only
 14:06:19 20 guess. I -- I can't give a straight answer.

21 BY MS. DENNIS:

22 **Q. So what would you guess?**

23 MS. JEZIERSKI: Objection; form.

24 THE WITNESS: I would guess that the
 14:06:33 25 majority of them were not substantiated, but that

JOLYNN GRAHAM REPORTING

1 there may have been substantiation to some claims
 2 within the allegations. But I really don't know.

3 BY MS. DENNIS:

4 **Q. Are there other types of**
 14:06:54 5 **discrimination claims that you deal with more**
 6 **commonly?**

7 **A. Yes.**

8 **Q. What are those?**

9 **A. More common allegations of**
 14:07:01 10 **discrimination would be discrimination based on**
 11 **race and based on medical condition.**

12 **Q. With regard to the claims you deal**
 13 **with related to race discrimination, about how**
 14 **many of those per year would you, roughly, say**
 14:07:21 15 **that you see?**

16 MS. JEZIERSKI: Objection; form.

17 THE WITNESS: With the exception of
 18 the last year, maybe -- maybe five, six a year
 19 each -- that's probably overestimating. Maybe
 14:07:42 20 four a year. In the last year my primary
 21 responsibilities have been focused on other
 22 activities not related to that particular case
 23 type.

24 BY MS. DENNIS:

14:07:57 25 **Q. Since 2014, have any of the**
 JOLYNN GRAHAM REPORTING

1 complaints of race discrimination you've had
2 involvement with, have any of those been
3 substantiated?

4 MS. JEZIERSKI: Objection; form.

14:08:14 5 THE WITNESS: Not to my knowledge.

6 BY MS. DENNIS:

7 **Q.** Have you ever been involved in an
8 IDR process where the manager accused of
9 discrimination has faced disciplinary action?

14:08:51 10 **A. I'm going to have to think about**
11 **this, because the distinction of the IDR process**
12 **is what I'm having to try to make sure that that's**
13 **-- my memories are of that particular type of**
14 **investigation.**

14:09:03 15 **Q.** Well, I can expand the question just
16 so I'm clear. So there's the HRdirect process and
17 the IDR process; is that right?

18 **A. Yes.**

19 **Q.** And those are done through different
14:09:18 20 procedures; is that right?

21 **A. Yes.**

22 **Q.** And in either HRdirect -- well, you
23 can just answer them separately in a -- have you
24 ever, at any case you've worked on involving race
14:09:41 25 discrimination -- let me start at the beginning of

JOLYNN GRAHAM REPORTING

1 that.

2 Are you aware of any supervisor that
3 has had a claim of race discrimination
4 substantiated with regard to -- sorry, that was
14:10:12 5 also not a very clear way of describing that.

6 Since 2014, in your experience with
7 the IDR process, has an employee's claim of racial
8 discrimination ever been substantiated?

9 **A. No.**

14:10:38 10 **Q.** Since 2014, in your experience in
11 the HRdirect process, has an employee's claim of
12 race discrimination ever been substantiated?

13 **A. Claim, I'm going to say no. And can**
14 **I give a caveat?**

14:11:07 15 **Q.** Sure.

16 **A. Okay. No. But discrimination is**
17 **typically a motive versus an act, so if there is a**
18 **-- you know, if an employee alleges a slew of**
19 **examples of things that have occurred, and things**
14:11:26 20 **within those allegations have been substantiated,**
21 **let's say they're based on race, we have**
22 **substantiated items within complaints that have**
23 **alleged discrimination.**

24 **Q.** Have any managers been disciplined
14:11:49 25 as the result of an allegation of race

JOLYNN GRAHAM REPORTING

1 discrimination?

2 **A. We have had managers disciplined for**
3 **events that have occurred that were alleged to be**
4 **race discrimination.**

14:12:14 5 **Q.** And what -- how were these managers
6 disciplined?

7 MS. JEZIERSKI: Objection; form.

8 THE WITNESS: Typically it would be
9 termination depending on the egregiousness of
14:12:32 10 whatever was substantiated.

11 BY MS. DENNIS:

12 **Q.** So there have been managers who have
13 been terminated as a result of allegations of race
14 discrimination?

14:12:47 15 **A. Allegations of a particular event.**

16 **So there's not -- again with -- you know, trying**
17 **to understand the motive for somebody's behavior**
18 **isn't necessarily what somebody would be**
19 **terminated for. It would be somebody's specific**
14:13:04 20 **action. And there have been managers terminated,**
21 **you know, a few, very rarely.**

22 But managers who have -- we have
23 substantiated incidents that are considered
24 inappropriate behavior or a violation of our
14:13:19 25 policies, as it relates to any type of racial

JOLYNN GRAHAM REPORTING

1 comments or actions, have been terminated.

2 **Q.** Are you familiar with a program
3 called the technology development program?

4 **A. I am familiar with the terminology,**
14:13:49 5 **yes.**

6 **Q.** What do you understand the
7 technology development program to mean?

8 **A. My outside view of the TDP program**
9 **is that there are employees fresh out of school**
14:14:07 10 **that go through some sort of program. I'm not**
11 **sure of the details of how that works, if they,**
12 **like, go into several jobs or -- it's some sort of**
13 **track in the organization to, I believe -- if my**
14 **understanding is correct, I think they're in**
14:14:35 15 **different types of technical roles at different**
16 **times. But I can't be sure.**

17 **Q.** Has -- in any investigation you've
18 participated in in the last -- well, since 2014,
19 has any investigation you've participated in
14:14:59 20 involved the technology development program in any
21 way?

22 MS. JEZIERSKI: Objection; form.

23 THE WITNESS: Yes, I think -- I'm
24 pretty sure that there's one case that I can think
14:15:30 25 of, but --

JOLYNN GRAHAM REPORTING

1 BY MS. DENNIS:

2 **Q.** Can you tell me about that case and
3 how it involves the technology development
4 program?

14:15:41 5 MS. JEZIERSKI: Objection to the
6 extent it calls for attorney-client privileged
7 communication. So don't talk about any
8 communications with attorneys.

9 THE WITNESS: I'm trying really hard
14:16:00 10 to remember, and it was a long time ago, so just
11 give me a second here to try to recall the details
12 of that.

13 The investigation, as I recall, was
14 involving two leaders within the TDP program that
14:16:24 15 were over the program itself, and their
16 interaction with staff that were a part of the
17 program develop -- or the recruitment of people
18 within the program. It wasn't about people that
19 are actually in the TDP program.

14:16:44 20 **Q.** I see. So it was an issue related
21 to recruitment rather than --

22 **A. Correct.**

23 **Q.** -- kind of the program itself?

24 Do you know if people who are
14:17:05 25 participants in the TDP are subject to different

JOLYNN GRAHAM REPORTING

1 policies compared to non-TDP, UnitedHealth
2 employees?

3 **A. To my -- I mean with relation to**
4 **standard company policies, no, they would not be**
14:17:25 5 **subject to different company policies.**

6 In terms of job expectations and
7 things like that, I imagine there probably are in
8 the initial stages of that program. I really
9 don't know. But there could be different
14:17:39 10 expectations based on how the program is designed.

11 **Q.** Okay.

12 MS. DENNIS: Could we go off the
13 record.

14 (Short break.)

14:25:36 15 MS. DENNIS: I'm done. I have no
16 further questions.

17 MS. JEZIERSKI: No questions, and
18 we'll read and sign.

19

20

21

22

23

24

25

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1 I, **TANYA HUGHES**, do hereby certify that I
2 have read the foregoing deposition and found the
3 same to be true and correct except as follows,
4 (noting the page and line number of the change or
5 addition as desired and the reason why):

6

7 DEPOSITION ERRATA SHEET

8 Page No. _____ Line No. _____ Change To: _____

9

10 Reason for change: _____

11 Page No. _____ Line No. _____ Change To: _____

12

13 Reason for change: _____

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TANYA HUGHES

20 Please send Original Errata sheet to:

21

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24

25

JOLYNN GRAHAM REPORTING

1 STATE OF MINNESOTA:
2 : CERTIFICATE
3 COUNTY OF HENNEPIN:

4 BE IT KNOWN, that I, Jolynn Graham, took the
5 foregoing deposition of **TANYA HUGHES**;

6 That the witness, before testifying, was by me
7 first duly sworn to testify the whole truth and
8 nothing but the truth relative to said cause;

9 That the testimony of said witness was recorded
10 in shorthand by me and was reduced to typewriting
11 under my direction;

12 That the foregoing deposition is a true record
13 of the testimony given by said witness;

14 That the reading and signing of the
15 foregoing deposition by the said witness **WAS NOT**
16 **WAIVED** by the witness and respective counsel;

17 That I am not related to any of the parties
18 hereto, nor an employee of them, nor interested in
19 the outcome of the action;

20 That the cost of the original has been charged
21 to the party who noticed the deposition, and that
22 all parties who ordered copies have been charged
23 at the same rate for such copies;

24 WITNESS MY HAND AND SEAL this 24th DAY of
25 FEBRUARY, 2020.

Jolynn Graham, RPR
Notary Public

JOLYNN GRAHAM REPORTING

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